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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were Introduced in Lok Sabha on the 21st February, 1997:—

BILL NO. 1 OF 1997

A Bill to simplify, rationalise and consolidate the laws relating to labour so as to make them less complex for easier comprehension, implementation and enforcement.

BE it enacted by Parliament in the Forty-eighth year of the Republic of India as follows:—

CHAPTER I
PRELIMINARY

1. *(1)* This Act may be called the Indian Labour Act, 1997. Short title, extent, commencement and application.

(2) It extends to the whole of India:

Provided that it shall not apply to the State of Jammu and Kashmir except to the extent to which the existing labour laws apply and the provisions of this Code relate to matters concerning workmen employed under the Government of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different classes of establishments; different provisions of this code and for different States or different parts thereof ; so, however, all the provisions of this Code shall apply to all the classes of establishments in the whole of the country including the State of Jammu and Kashmir, by 1st January, 2000.

(4) It shall apply to all the establishments, including the establishments belonging to the Government.

Definitions.

2. In this Act, unless the context otherwise requires,

(a) "adult" means a person who has completed his eighteenth year of age;

(b) "apprentice" means a person who is engaged for apprenticeship training in a designated trade in pursuance of a contract of apprenticeship under this code;

(c) "appropriate Government" means—

(i) in relation to the following establishments, the Central Government, namely:—

Air Transport, Atomic Energy, Banking, Currency, Defence, Financial Institutions owned, controlled or managed by the Central Government. Insurance Life Insurance Corporation, General Insurance Corporation and Employees State Insurance Corporation, Major Ports, Mines including oilfields, Posts and Telegraphs including Telephones, Provident Funds, Information and Broadcasting, Railways, Shipping, Space and such other establishments as may be notified by the Central Government after consultation with the National Labour Relations Commission;

(ii) in relation to other establishments, the Government of the State where they are located.

Explanation:

If there is any dispute as to the appropriate Government with respect to any particular establishment or class of establishments the dispute shall be referred to the National Labour Relations Commission and the decision of the Commission shall be final;

(d) "award" means an interim or a final decision of an arbitrator, a Labour Court, a labour Relations Commission in relation to a Labour dispute or any question relating thereto, other than an order and including a supplementary award;

(e) "body corporate" means a body with the name specified, having perpetual succession and common seal with power, subject to the provisions of this code, to acquire hold and dispose of property and contract and may by that name, sue or be sued;

(f) "closure" means the closing permanently of any place or part of a place of employment;

(g) "dependent" means the spouse, unmarried sons, daughters, brothers and sisters below the age of twenty five years and who are not gainfully employed, dependent parents and dependent widowed daughters-in-law, minor children of deceased son and minor children of deceased daughter whose husband is not alive:

Provided that the age limit shall not apply to children, brothers and sisters who are disabled;

(h) "employee" means any person employed by an employer, irrespective of the nature of his avocation to do any work for wages, hire or reward and includes an outworker and an agriculture worker but does not include a person:

(i) who is subject to the Army Act, 1950 (46 of 1950) or the Air Force Act, 1950, or the Navy Act, 1957 or;

(ii) who is employed in the police service or an officer or other employer of a prison, or;

(iii) who is employed as a Managing Director, Director, General Manager or person in charge of an establishment and exercises substantial powers of management;

(i) "employees representative" means any person elected, chosen or designated to represent employees for the protection of employees;

(j) "employer" means an individual or an association of persons incorporated

or otherwise irrespective of the nature of his avocation, employing an employee and includes a person engaging or employing an outworker or an agricultural worker;

(k) "employers' association" means any combination, whether temporary or permanent, formed *inter-alia* for the purpose of regulating the relations between the employers and the employees or between employers and employers and includes a federation of two or more employers' association and a confederation of two or more federations of employers' associations;

(l) "employers representative" means the occupier, agent, manager or a person who is in charge of the factory, mine, or other undertaking or a work process therein;

(m) "establishment" means any place where any industry, trade, business, manufacture, occupation or any other activity is carried on and one or more persons are employed;

(n) "family" means the spouse, unmarried sons and daughters, below the age of twenty five years who are not gain-fully employed and dependent parents :

Provided that no age limit shall apply to the disabled dependent children;

(o) "labour dispute" means any dispute or difference between employers and employers or between employers and employees or between employees and employees which is connected with the employment or non-employment or the terms of employment or with the conditions of labour of any person or group of persons;

(p) "lay-off" with its grammatical variations and cognate expressions means the failure, refusal, or inability of an employer on account of shortage of fuel, power or raw material or the accumulation of stocks or the breakdown of machinery or for any natural calamity or for any other reason to give employment to an employee whose name is borne on the muster rolls of his establishment and who had not been retrenched;

(q) "lock-out" means the closing of a place of employment or the suspension of work or the refusal by any employer to continue to employ any number of employees employed by him in consequence of labour dispute;

(r) "notification" means a notification published in official gazette;

(s) "out worker" means a person who is engaged, employed or contracted by any other person in the course of that other person's activity or whom if any articles or materials are given out by another person to be made up, cleaned, washed, altered, ornamented, finished, repaired, adapted or otherwise procured for sale or for the purpose of trade or business of that other person and who works in some premises not being the premises under the control or management of that person or in a dwelling house and includes a person who is in substance so engaged employed or contracted notwithstanding that the form of the agreement between the parties is technically that of seller or purchaser or that he is described as an independent contractor;

(t) "permanent total disablement" means such disablement of a permanent nature of incapacitates an employee for all work which he was capable of performing at the time of the accident resulting in such disablement:

Provided that permanent total disablement shall be deemed to result from every injury specified in part I of Schedule X or from any combination of injuries specified in part II there of where the aggregate percentage of the loss of earning capacity, as specified in the said part II against those injuries, amounts to one hundred per cent or more.

(u) "prescribed" means prescribed by rules or regulations made under this Act;

(v) "publication" shall have the same meaning as is assigned to it in clause (B) of section 23 of the General Clauses Act, 1897 except that the date to be specified thereunder shall not be less than three months from the date on which draft of the rules was published.

(w) "regulations" shall include code of conduct, bye-laws or such other form of legislative measures;

(x) "retrenchment" means the termination by the employer of the services of an employee for the reason that he is surplus to requirement of the establishment;

(y) "service or continuous service" means a service or continuous service which is not terminated for any reason;

(z) "settlement" means a settlement arrived at in the course of conciliation or mediation proceedings and includes a written agreement between the employer and employees arrived at by them otherwise than in the course of conciliation or mediation proceedings;

(aa) "sickness" means a condition which requires medical treatment and attendance and necessitate abstention from work on medical grounds;

(bb) "strike" means a total or partial cessation of work by the employees in any undertaking acting in combination or a concerted refusal under a common understanding of employees to work or to accept work where such cessation or refusal is in consequences of a labour dispute;

(cc) "temporary disablement" means a condition resulting from an employment injury which requires medical treatment and renders an employee, as a result of such injury, temporarily incapable of doing the work which he was doing prior to or at the time of injury;

(dd) "trade union" means any combination whether temporary or permanent, formed primarily for the purpose of regulating the relations between employers and employees or between employees and employees and is under a federation of two or more trade unions as well a confederation of two or more federation of trade unions.

(ee) "unorganised labour" means Labour employed in any employment specified in Schedule XII;

(ff) "wages" means all remuneration capable of being expressed in terms of money, which would, if the terms of employment, expressed or implied were fulfilled, be payable to a workman in respect of his employment, or of work done in such employment, and includes—

(i) such allowances (including dearness allowance) as the workman is for the time being entitled to;

(ii) the value of any house accommodation, or of supply of light, water, medical attendance or other amenity or of any service or of any concessional supply of food grains or other articles;

(iii) any travelling concession;

(iv) any commission payable on the promotion of sales or business or both; but does not include

(a) any bonus;

(b) any contribution paid or payable by the employee to any pension fund or provident fund or for the benefit of the workman under any law for the time being in force;

(c) any gratuity payable on the termination of his service;

(gg) "week" means a period of seven days beginning at mid night on Saturday night;

(hh) "young person" means a person who has completed his fifteenth year of age but has not completed his eighteenth year;

Construction of references.

3. *(1)* Any reference in this code to a law which is not in force in the State of Jammu and Kashmir shall, in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.

(2) Any reference in any provision to the commencement of this Act, in an establishment; a State or part thereof, shall be construed as a reference to the coming of force of that provision in that establishment, State or part thereof.

CHAPTER II

RIGHTS OF EMPLOYEES

Right to work of one's choice.

4. Every person shall have the freedom to earn his living by work of his choice subject only to the availability of the job and the technical qualifications, if any, required.

Right against discrimination.

5. There shall be no discrimination in employment on the grounds of race, colour, sex, language, religion, caste, place of birth or any of them:

Provided that there shall be no bar to any affirmative action for the benefit of those classes of people protected under articles 15 and 16 of the Constitution.

Prohibition of child labour.

6. Employment of children, below the age of 15, is hereby prohibited.

Just and humane conditions of work.

7. Every employee has the right to the enjoyment of just and humane conditions of work namely occupational rights and in particular every employee shall be entitled to—

(a) fair remuneration for the work which shall be commensurate with the value of work done and shall not be less than the minimum wage fixed with reference to the basic needs of the employee so as to provide adequate means of livelihood and a decent standard of living to him and his family;

(b) **equal remuneration for equal work or for work of similar nature without any discrimination on the basis of sex, religion, caste, place of birth, age or the nature of employment whether casual, temporary or regular;**

(c) **safe and healthy conditions of work, reasonable limitation of the hours of work with adequate provision for rest, weekly days off, holidays with pay, annual leave and leave for sickness as may be prescribed;**

(d) equal opportunity for promotion to higher levels subject to no consideration other than seniority and merit.

Right to Social Security.

8. *(1)* Every woman employees shall be entitled to protection of her employment and wages for reasonable period as prescribed during, before and after child-birth, subject to such restrictions as may be prescribed in public interest.

(2) **Every employee shall be entitled to such security of income and for such period as may be prescribed during sickness or disability or during a natural calamity.**

(3) Every employee shall be entitled to a reasonable amount of old age pension or such other benefit or both on attaining the age of superannuation as may be prescribed.

(4) Every employee who loses his job for no fault of his shall be entitled to adequate compensation.

Protection of wages.

9. Every employee shall be entitled to protection of his wages against non-payment, short payment, irregular payment, unauthorised deductions and such other malpractices and he shall be entitled to reasonable protection of his real wages.

Right to redressal.

10. Every employee shall be free to report to the authorities concerned any infraction of the law concerning his rights and shall have the right to initiate action for the contravention of the law.

Right to guarantee of wages in case of closure.

11. Notwithstanding any provision to the contrary in any law for the time being in force, unpaid wages shall be a first charge on the assets of the employer in the event of his insolvency or bankruptcy or closure of an undertaking and the payment of the dues shall be guaranteed by the appropriate Government.

Right to organise and form Trade union and Right to collective bargaining.

12. *(1)* Every employee has the right to form or join a trade union of his choice subject only to the rules of the organisation concerned for the promotion and protection of his economic and social interests.

(2) Every organisation of employees shall have the right to draw up its own constitution and rules to elect its representatives in full freedom, to organise its administration and its activities and to formulate its own programmes.

(3) Every organisation of employees shall have the right to establish and to join federation and confederation of employees and every such federation or confederation shall have the right to affiliate with international organisations of employees.

(4) No one shall be discriminated against in the matter of employment on grounds only of his trade union activities.

(5) **Designated representatives of a recognised trade union shall be entitled to such protection and facilities as are necessary to enable them to carry out their trade union functions effectively.**

(6) Subject to the provisions of this Act, employees shall have the right to bargain with their employers and to enter into binding agreements collectively.

(7) Individual employees and non-recognised but registered unions shall, however, have the right to seek redressal of individual grievances.

(8) Subject to the provisions of this Act, every recognised trade union shall have the right to strike, freedom of assembly for trade union purposes and the right to express opinions.

Right to participation in management.

13. Subject to the provisions of this Act, every employee shall have the right to participate in the management of his establishment at various levels through his representative and every such representative shall have the right to call for and to obtain information about the affairs of the establishment required for the purpose.

CHAPTER III

EMPLOYMENT

Promotion of full productive and freely chosen employment.

14. The Government shall in pursuit of an active policy of promoting full productive and freely chosen employment take measures to ensure that—

(a) there is work, for all who are available for and seek work;

(b) such work is as productive as possible;

(c) there is freedom of choice of employment and full opportunity for each person to qualify and to use his skills and endowments in a job for which he is well suited irrespective of religion, race, caste, sex, place of birth, residence, language, political opinion or social origin.

Human Resources Services.

15. *(1)* **The appropriate Government shall, as a means of securing employment for all those persons seeking employment, and enabling employers to obtain requirements of labour, organise and maintain services specified below, namely:—**

(i) **employment service;**

(ii) **vocational guidance and training;**

(iii) **training, guidance, assistance and provision of necessary facilities for self-employment;**

(iv) **provision of information pertaining to employment and training;**

(v) **creation of special opportunities for employment of handicapped persons; and**

(vi) **financial assistance for promotion of employment.**

(2) These services shall be so organised as to be able to cope with changes in the demand for labour, size and structure of the labour force and mobility of labour.

Employment Service.

16. *(1)* **The appropriate Government shall maintain a free public employment service.**

(2) **The employment service shall consist of a network of employment offices located in the headquarters of each district with sub-offices in each town with a population of 25,000 or more for the convenience of persons seeking employment as well as the employer requiring labour.**

(3) The functions and duties of the employment service shall be primarily to assist those seeking employment to find suitable employment and to assist employers to find suitable employees.

(4) The employment offices shall:—

(a) register applications for employment with such particulars as may be prescribed;

(b) obtain from employers information with respect to the vacancies available in such detail as may be prescribed; and

(c) refer to the employers the particulars of candidates who satisfy their requirements.

(5) Subject to the provisions of this Act, no citizen shall, on grounds of religion, race, caste, sex, place of birth or residence, be subjected to any restriction to register himself in any employment office in the country.

(6) (a) (i) Subject to the provisions of Clauses (*d*) and (*e*) every vacancy in an establishment shall be notified to the employment office within the jurisdiction of which the establishment is located calling for a list of candidates who possess the prescribed qualifications and experience for filling up the vacancy and the employment office shall furnish such a list within fifteen days of receiving the requisition;

(ii) When the number of candidates required for appointment, compared to the number of vacancies is sufficiently large, the vacancies may be notified to other employment exchanges in the neighbourhood, region or the whole State, as the case may be.

(b) The employer shall select a person from among the candidates sponsored by the employment office and offer him appointment against the vacancy.

(c) Where suitable candidates are not available in the register maintained by the employment offices satisfying the requirements of the employer or where the employer does not find any candidates sponsored by the employment offices suitable for his requirements he may fill up the vacancy by other means.

(d) The provisions of clauses *(a)* to *(c)* shall not apply to—

(i) vacancies, the total duration of which is not likely to exceed three months;

(ii) vacancies which are proposed to be filled through promotion or by absorption of surplus staff of any branch or department of the same establishment;

(iii) vacancies which fall within the purview of Union Public Service Commission, State Public Service Commission or any other statutory recruitment agency;

(iv) vacancies arising as a result of the abolition of contract labour system; and

(v) vacancies which may be filled up by absorption of apprentices who are undergoing training in the establishment.

(e) The appropriate Government may, by notification, exempt any establishment or class of employees from the provisions of this section for a period not exceeding five

years at a time for reasons to be specified therein;

(f) The employment service may establish and maintain separate employment offices for meeting the special needs of employers belonging to particular industries or occupations wherever the character of importance of the industries or occupations or other special factors justify the maintenance of such separate offices;

(g) The employment service may also make special arrangements for the placement of women, professionals, disabled persons and other special categories of persons by establishing and maintaining separate employment offices.

(7) *(a)* **There shall be a National Employment Service (organisation) to—**

(i) **formulate minimum national standards concerning the staffing and other arrangements of the employment offices;**

(ii) **collect and disseminate employment market information;**

(iii) **conduct studies on various aspects of the employment market;**

(iv) **prepare periodical manpower plans and budgets; and**

(v) **carry out such other activities as may be prescribed.**

(b) **The structure and method of work of the service shall be such as may be prescribed by the Central Government.**

Regulation of employment in certain activities.

17. *(1) (a)* The appropriate Government may make provision by one or more schemes for the registration of workers and employers in the activities specified in Clause *(b)*, with a view to ensuring greater regularity of employment and for regulating the employment of the employees therein whether registered or not in a specified place or area;

(b) Activities for which schemes may be prepared for regulating employment under clause *(a)* shall be—

Dock Works; building and construction industry; brick kilns; *Mathadi* Work; Railway porterage; Security guards; Anganwadi Worker; Private Motor Transport; loading and unloading; Transportation of goods by head load and such other activities as may be notified in the official Gazette by the appropriate Government from time to time.

(2) In particular a scheme may provide for—

(a) their application to such class or classes of workers and employers as specified therein;

(b) regulating their recruitment and entry into the scheme and registration of the workers and employers;

(c) regulating the employment of workers whether registered or not, and the terms and conditions of such employment, including the rates of remuneration, hours of work and conditions as to holidays and wages in respect thereof;

(d) creation of such fund or funds as may be necessary and expedient for the purposes of the scheme and for the administration of such fund or funds;

(e) constituting the authority who would be responsible for the administration of the scheme; and

(f) such other incidental and supplementary matters as may be necessary or expedient for the purposes of the scheme.

Vocational Guidance.

18. *(1)* **The appropriate Government shall establish and maintain a system of Vocational Guidance to—**

(a) assist persons who are entering the labour force, who seek to change their work activities or who are unemployed, to choose an occupation and to plan related education and vocational training;

(b) inform employed persons of opportunities for improving their occupational development potential, their level of performance, their earnings and their position,

of the educational and vocational training requirements and of the facilities available for this purpose;

(c) promote general awareness of the contributions which are and can be made by the various sectors of the economy and branches of economic activity, including those which traditionally enjoyed little prestige, to general development as well as to expand employment;

(d) assist co-operating institutions to provide information and feed back on the effectiveness of training programmes as an integral part of Vocational Guidance.

(2) Vocational Guidance shall be provided through employment offices and such other agencies as may be prescribed.

(3) The Central Government shall lay down the policies and procedures for vocational guidance, training and guidance of personnel, development of tools and techniques of Vocational Guidance and for periodical evaluation of the programme.

(4) There shall be co-ordination between the authorities giving vocational guidance and the educational authorities concerned at all levels where such authorities exist.

Vocational Training.

19. *(1)* **The Central Government, shall in collaboration with the State Governments, establish and maintain a national system of vocational training to meet the needs for vocational training throughout the working life of young persons and adults in all sectors of the economy and branches of economic activity and at all levels of skills and responsibility.**

(2) Vocational Training programmes shall be so designed as to promote full employment and development of the potential of each individual so as to enable him to rise to the highest level possible.

(3) **Vocational Training programmes for individual occupations and branches of activity shall, as appropriate, in progressive stages which together provide adequate opportunities for—**

(a) **pre-employment training for persons with little or no previous work experience to enable them to secure employment without prejudice to their freedom to choose their employment;**

(b) **initial training, after employment to enable the persons to perform the jobs assigned to them;**

(c) **further training to enable the persons engaged in an occupation to improve their performance, broaden the range of their activities, rise to higher levels of work or to gain promotion and to update their knowledge and skills so as to keep pace with the technological and other developments in their field of activity;**

(d) **retraining to enable persons to acquire new qualifications for employment in a different occupational field when it becomes necessary for them to change their field of employment;**

(e) **training in safety and health at the place of work specially for young persons with little or no previous work experience;**

(f) imparting information relating to the rights and obligations of employments including those relating to social security schemes; and

(g) **such further education as is necessary to complement the training.**

(4) (a) Training Programmes shall be organised to the extent possible within the respective fields of activity.

(b) Where training is provided in institutions outside the fields of activity the training programmes shall be organised in consultation with the employers or management concerned so as to meet the needs of the activities.

Apprentice-ship.

20. *(1)* The appropriate Government shall determine for each designated trade the ratio of trade apprentices to workers other than unskilled workers in that trade.

(2) In determining the ratio, the appropriate Government shall have regard to the facilities available for apprenticeship training in the designated trade concerned as well as to facilities that may have to be made available by an employer for the training of graduates or technical apprentices.

(3) The appropriate Government through a designated officer, called Apprenticeship Adviser, may, by notice in writing, require an employer to engage such number of trade apprentices as specified in the notice within the ratio prescribed by the appropriate Government for a designated trade in his establishment, to undergo apprenticeship training in that trade and the employer shall comply with such requisition:

Provided that in making any such requisition the appropriate Government shall have regard to the facilities acutally available in the establishment concerned.

(4) The appropriate Government, through the Apprenticeship Adviser may, by notice in writing, require an employer to impart training to such number of graduates or technician apprentices or technician Vocational apprentices in such trade in his establishment as may be specified in the notice and the employer shall comply with such requisition: Provided that in making such requisition the appropriate Government shall have regard to such factors as may be prescribed.

(5) Several employers may join together for the purpose of providing practical training to the apprentices.

(6) Nothing contained in this Act shall be deemed to prevent any employer from engaging a number of trade apprentices, in excess of the ratio determined by the Government.

(7) (a) Where, having regard to the public interest, a number of apprentices in excess of the ratio determined by the appropriate Government or in excess of the number specified in a notice issued under this section should in the opinion of the appropriate Government be trained, the appropriate Government may require employers to train the additional number of apprentices.

(b) Every employer to whom such requisition as aforesaid is made shall comply with the requisition if the Government concerned makes available such additional facilities and such financial assistance as are considered necessary by the Apprenticeship Adviser for the purpose of training of the additional number of apprentices.

(8) Every employer shall make suitable arrangement in his workshop for imparting a course of practical training to every apprentice engaged by him in accordance with the programme approved by the Apprenticeship Adviser.

(9) (a) The programme of apprenticeship training and the facilities required for such training in engineering or technology or vocational course shall be such as may be approved by the Central Government in consultation with the National Council of Vocational Training.

(b) Recurring costs including the cost of stipends incurred by an employer in connection with practical training, including basic training, imparted to trade apprentices shall be borne by the employer except as otherwise provided.

(10) (a) In every designated trade training places shall be reserved by the employer for the Scheduled Castes and the Scheduled Tribes and where there is more than one designated trade in an establishment such training places shall also be reserved on the basis of the total number of apprentices in all the designated trades in such establishment.

(b) The number of training places to be reserved for the Scheduled Castes and the Scheduled Tribes under clause *(a)* shall be such as may be prescribed, having regard to their population in the state concerned.

Explanation: In this sub-section, the expression Scheduled Castes and Scheduled Tribes shall have the same meaning as in clauses *(24)* and *(25)* of article 366 of the Constitution.

(a) It shall not be obligatory on the part of the employer to offer any employment to any apprentice who has completed the period of his apprenticeship training in his establishment, nor shall it be obligatory on the part of the apprentice to accept an employment under the employer; the employer may give preference to the apprentices trained in his establishment in making appointment against vacancies available in the establishment;

(b) Notwithstanding anything in clause *(a)*, where there is a condition in a contract of apprenticeship that the apprentice shall after the successful completion of the apprenticeship training, serve the employer, the employer shall, on such completion, be bound to offer suitable employment to the apprentice, and the apprentice shall be bound to serve the employer in that capacity for such period and on such remuneration as may be specified in the contract:

Provided that where such period or remuneration is not, in the opinion of the Apprenticeship Adviser, reasonable he may revise such period or remuneration so as to make it reasonable and the period or remuneration so revised shall be deemed to be the period or remuneration agreed to between the apprentice and the employer.

Prohibition of Contract Labour.

21. *(1)* Employment of Contract Labour in any process, operation or other work in any establishment shall stand prohibited where the process, operation of their work—

(i) is incidental to or necessary for the industry, trade, business or occupation that is carried on in the establishment;

(ii) is of perennial nature;

(iii) is done ordinarily through regular workmen in that establishment or an establishment similar thereto;

(iv) is sufficient to employ considerable number of workmen on whole time basis.

Explanation: If a question arises whether any process or operation or other work is of perennial nature, the decision of the appropriate Labour Relations Commission thereon shall be final.

(2) If the system of Contract Labour is in force at the commencement of this code in any process, operation or other work where it is prohibited under sub-section *(1)* it shall stand abolished with effect from the date of commencement of this Act and the persons employed by a contractor in or in connection with that process, operations or their work of an establishment for a period of not less than two hundred and forty days within a period of three years shall be the employees of that establishment in relaxation of such of conditions as may be prescribed for recruitment to the positions held by them, where necessary.

Non-discrimination in employment.

22. No employer shall, while making recruitment for the same work or work of similar nature, or in any condition of service subsequent to recruitment such as promotion, training or transfer, make any discrimination against any person on grounds only of religion, race, caste, sex, place of birth or any of them:

Provided that the provisions of this section shall not affect any priority or reservation for Scheduled Castes or Scheduled Tribes, ex-servicemen, retrenched employees or any other class or category of persons in the matter of recruitment to the posts in an establishment or employment as may be prescribed.

Minimum age for employment.

23. *(1)* No person who is under the age of fifteen years shall be employed in any occupation.

(2) No person who is under the age of eighteen years shall be employed or permitted to work in any of the occupations set forth in part A or in any workshop wherein any of the processes set forth in part B of Schedule.

(3) The Central Government may, in consultation with the National Council of Employment and after giving by notification not less than three months notice of its intention so to do, by another notification add any occupation or process to the Schedule and thereupon the Schedule shall be deemed to have been amended accordingly.

Classification of employees.

24. (1) Employees shall be classified as —

(a) Permanent; (b) probationers; (c) *badlis;* (d) temporary; (e) casual;

(2) A permanent employee shall be one who has been engaged in a position of permanent nature and who has satisfactorily completed a probationary period in the same or another occupation in the establishment including breaks due to sickness, accident, leave, lockout, strike or involuntary closure of the establishment.

(3) A 'probationer' shall be an employee who is provisionally employed to fill a permanent vacancy in a position of permanent nature and has not completed the period of probation; so, however, if a permanent employee is employed as a probationer in a new position he may, at any time during the probationary period, be reverted to his previous permanent position.

(4) A *'badli'* shall be an employee who is appointed in the position of a permanent employee or probationer who is temporarily absent.

(5) A 'temporary employee' shall be an employee who has been engaged for an employment which is of an essentially temporary nature likely to be completed within a period not exceeding one year.

(6) A 'casual employee' shall be an employee whose employment is of casual nature which does not last for more than three months.

Conditions governing appointments.

25. (1) No appointment shall be made to a position of permanent nature on temporary or casual basis.

(2) (a) A person may be appointed to a position of permanent nature as a probationer;

(b) the period of probation shall not exceed six months but may be extended for a further period not exceeding six months for reasons to be stated in writing;

(c) on completion of the period of probation, unless it is extended or terminated for unsatisfactory service, the appointment shall be confirmed or deemed to have been confirmed;

(d) a person may be appointed to a position of permanent nature on temporary or officiating basis when the incumbent of the post is absent or there is delay in making regular appointment to the position for any reason; but such temporary or officiating appointment shall in all cases be made permanent or deemed to have been made permanent, on completion of one year.

(3) The appointment made to a position which, having been created on a temporary basis, has lasted for more than one year shall be made permanent or be deemed to have been made permanent, on completion of one year.

(4) The appointment made to a position which having been created on a casual basis has lasted for more than three months shall be made temporary or deemed to have been made temporary on completion of three months.

(5) **In those activities where work is of seasonal nature, the person appointed against the seasonal position shall continue to be an employee during the non-working season and be paid a retaining allowance.**

Letter of appointment.

26. On the commencement of an employee's period of employment with an employer, the employer shall give to the employee a letter of appointment, in writing, setting out the following particulars, namely:—

(a) the title of the position to which the employee is appointed;

(b) the date of commencement of the employment;

(c) the scale and the rate of remuneration including allowances admissible;

(*d*) the period of employment or the nature of employment whether, permanent, temporary or *badli*;

(*e*) other terms of employment, not specified in the standing orders.

Standing Orders.

27. (*1*) The Central Government shall prescribe one or more sets of model standing orders on matters specified in Schedule II.

(*2*) Every employer shall make standing orders setting out the terms of employment of his employees which shall be as close to the model standing orders as possible but in no case less favourable to the employees.

(*3*) (*a*) In making the standing orders the employer shall consult the recognised trade unions;

(*b*) differences, if any, between the recognised trade union and the management in respect of the standing orders shall be referred to the Labour Court for decision.

(*4*) Where the employer has not made his own standing orders, the model standing orders shall apply.

(*5*) The terms of employment set out in the standing orders shall be subject to the provisions of this Act and the terms of settlement or award if any.

(*6*) If any question arises as to the application or interpretation of a standing order it may be referred to the Labour Court and that Court shall decide the question after giving the parties an opportunity of being heard;

(*7*) The decision of the Labour Court under this section shall be final and binding on the parties.

Notice of Change.

28. (*1*) An employer who proposes to effect any change in the conditions of service of his employees in respect of any matter specified in Schedule III shall give notice of his intention to do so to the recognised union or council of recognised unions, explaining the reasons for the proposal and seek their consent thereto.

(*2*) If the recognised union or council accept the proposal they shall convey their consent within a period of three weeks whereupon the proposed change shall come into force from such date as is agreed upon.

(3) If the recognised union or council do not give their consent or convey their dissent within the specified period the employer shall invite them for negotiation failing which the matter shall be referred to arbitration or adjudication as per the procedure prescribed for settlement of collective disputes:

Provided that this procedure need not be followed for giving effect to changes in pursuance of a settlement or an award.

Misconduct.

29. The following Acts of omission or commission shall denote misconduct, namely:—

A. Major Misconduct

(*a*) theft, fraud or dishonesty in connection with the employer's business or property;

(*b*) taking or giving of bribes or an illegal gratification whatsoever in connection with the employer's business or his own interests;

(*c*) wilful insubordination or disobedience, whether along or in conjunction with another, of any lawful or reasonable order, of a superior, which shall normally be in writing;

(*d*) drunkenness, fighting or riotous, disorderly or indecent behaviour while on duty at the place of work;

(*e*) habitual neglect of work;

(*f*) habitual indiscipline;

(*g*) smoking in places where it is prohibited;

(*h*) causing wilful damage to work in progress or to property of the employer;

(*i*) conviction in any Court of Law for any criminal offence involving moral turpitude;

(*j*) continuous absence without permission and without satisfactory cause for more than ten days;

(*k*) threatening, abusing or assaulting any superior or co-worker;

(*l*) preaching of or inciting violence;

(*m*) disclosing to any unauthorised person of any confidential information, in regard to the working or process of the establishment, which may come into the possession of the employee in the course of the work.

B. Minor Misconduct

(*i*) habitual late attendance and habitual absence without leave or without sufficient cause;

(*ii*) sleeping on duty;

(*iii*) malingering or slowing down work;

(*iv*) acceptance of gifts from subordinate employees;

(*v*) giving false information regarding one's name, age, father's name, qualification or previous service at the time of employment;

(*vi*) leaving work without permission or sufficient reason;

(*vii*) any breach of the Mines Act, 1952, or any other Act or any rules, regulations or bye-laws thereunder, or of any Standing Orders; 35 of 1952.

(*viii*) habitual money-lending;

(*ix*) abetment of or attempt at abetment of any of the above acts of misconduct;

(*x*) going on strike without following the prescribed procedure;

(*xi*) Refusal to accept any charge sheet or notice communicated in writing;

(*xii*) failure or refusal to wear or use any protective equipment given by the employers.

Note: A misconduct which is classified as minor may be deemed to be major or vice versa depending on the circumstances of the case.

Disciplinary action.

30. (*1*) No order of punishment shall be made unless the employee concerned is informed in writing of the allegations against him and given an opportunity to make a representation against the allegation and his representation is given due consideration by the disciplinary authority.

(*2*) No major penalty shall be imposed on an employee for an alleged misconduct unless an enquiry is held in accordance with the principles of natural justice which shall include the following, namely that:—

(*a*) he is informed in writing of the allegations against him;

(*b*) he is given an opportunity to make representation against the allegation;

(*c*) a departmental enquiry is held into the allegation which is denied by the employee and the allegation is proved true;

(*d*) a speaking order is passed setting out the findings of the enquiry and the conclusion arrived at.

(*3*) The proceedings instituted for an alleged misconduct by an employee shall ordinarily be completed within a period of ninety days which may be extended by the competent authority for such period as may be deemed necessary for reasons to be recorded in writing.

Penalties.

31. (*1*) The following penalties may be imposed on an employee for proven misconduct, namely:—

A. Minor Penalties

(*a*) Warning or censure;

(b) withholding of increments;

(c) withholding of promotion;

(d) recovery from wages of the whole or part of any pecuniary loss caused to the employer by the action or inaction of the employee.

B. Major Penalties

(a) suspension, not exceeding ten days;

(b) reduction in rank or pay upto five increments;

(c) discharge;

(d) dismissal.

(2) In awarding a penalty the authority concerned shall take into consideration the gravity of the misconduct, the previous record of the employee, and any other extenuating or aggravating circumstances that may exist.

(3) An employee may not be discharged or dismissed from service unless the employer cannot in good faith take any other course.

(4) An employer shall be deemed to have waived his right to impose a penalty on an employee unless the action to impose the penalty is initiated within a reasonable period after he becomes aware of his misconduct.

Suspension.

32. *(1)* No employee shall be placed under suspension pending investigation and enquiry unless the allegation relates to a major misconduct warranting discharge or dismissal from service.

(2) During suspension the employee shall be entitled to substinence allowance:

(a) at the rate of fifty per cent. of wages which the employee was entitled to immediately before the date of suspension for the first ninety days; and

(b) at the rate of seventy five per cent. of such wages for the remaining period of suspension if the delay in the completion of the proceedings is not directly attributable to the conduct of the employee, provided that the employee is not gainfully employed.

(3) If after an inquiry the employee is found not guilty of the charges framed against him he shall be deemed to be on duty during the period of suspension and he shall be entitled to receive the same wages as he would have received had he not been suspended.

(4) If the proceedings against an employee who is placed under suspension are not concluded within a period of six months the order of his suspension shall be deemed to have been revoked and he shall be taken back to duty without prejudices to the continuance of the proceedings.

(5) If a person who is suspended pending inquiry into an allegation of major misconduct is on conclusion of proceedings awarded a minor penalty it shall be deemed that his suspension was not justified and he shall be regarded as having been on duty during the period of suspension.

Appeal.

33. *(1)* An employee who is aggrieved by an order imposing a penalty may, within thirty days of receipt of the order, appeal against the order to the authority prescribed in or under this code for settlement of individual disputes and grievances.

(2) An employee shall be deemed to have waived his right of appeal against dismissal for serious misconduct if he does not file the appeal within the prescribed period.

(3) An appeal preferred after the prescribed period may be admitted by the appellate authority at its discretion if he is satisfied that the appellant had sufficient reason for not preferring the appeal within that period.

Age of Superannuation.

34. *(1)* An employee shall retire from service at the age of sixty.

(2) In case of hazardous occupations the employer may, in consultation with the recognised trade union, fix a lower age of superannuation.

(*3*) An employee may be permitted to retire from service before attaining the age of superannuation with proportionate terminal benefits on completion of a minimum of twenty years of service.

Employment Security.

35. (*1*) The employment of an employee shall not be terminated without a proper inquiry and unless there is a valid reason connected with the capacity or conduct of the worker or based on the operational requirements of the undertaking, establishment or service.

(*2*) The following shall not constitute valid reasons for termination of employment, namely:—

(a) union membership or participation in union activities outside working hours or, with the consent of the employer, within working hours;

(b) seeking office as acting or having acted in the capacity of workers representative;

(c) the filing in good faith of a complaint or the participation in a proceedings against an employer involved in violation of laws and regulations;

(d) race, colour, sex, marital status, religion, political opinion, national extraction or social origin.

(*3*) *(a)* An employee who feels that his employment has been unjustifiably terminated shall be entitled to approach the Labour Court directly for redressal of his grievance.

(b) The Labour Court may, if it finds that the termination of employment was unjustified, order reinstatement of the employee in service or payment of compensation of an appropriate amount or such other relief or all as it may deem necessary.

(*4*) *(a)* A permanent employee shall be given notice of at least three months before his employment is terminated; or pay in lieu of notice of termination thereof.

(b) A temporary employee shall be entitled to notice of at least one month or pay in lieu thereof before his employment is terminated.

Reduction in workforce or retrenchment.

36. (*1*) Every employer shall take positive steps to avert or minimise as far as possible reduction of the work force by the adoption of appropriate measures without prejudice to the efficient operation of the undertaking, establishment or service.

(*2*) However, if a reduction of the work force is contemplated, the recognised trade union shall be consulted as early as possible on all appropriate questions, such as, measures to avoid the reduction of the workforce, restriction of overtime, training and retraining, transfers between departments, spreading termination of employment over a certain period, measures for minimising the effects of the reduction on the employees concerned.

(*3*) An employer who intends to reduce the strength of the workforce in an establishment shall give notice of his intention to do so to the employees concerned in the prescribed manner at least ninety days before the date on which the intended reduction is to become effective explaining the reasons thereof and the terms of retrenchment.

Closure.

37. (*1*) An employer who intends to close down an undertaking shall give notice of his intention to do so to each of the employees who will be affected thereby, in the prescribed manner at least ninety days before the date on which the intended closure is to become effective explaining the reasons therefor and the terms on which the services of the employees are sought to be terminated.

(*2*) *(a)* Where an employer has given notice for closure of an establishment the recognised union or a co-operative of the employees of the establishment may, on its own motion or otherwise, make a counter proposal to the employer to take over the ownership or management of the establishment setting out the terms of such counter proposal.

(b) Where such proposal is received, the employer shall consider the same and seek a settlement with the union or the co-operative, as the case may be, on the terms of the transfer of ownership or management.

(c) Where a settlement is reached the ownership or management shall stand transferred in terms of the settlement.

(d) If no settlement is reached the proposed closure will come into effect on the expiry of the notice period in terms of the notice.

Retrenchment Compensation.

38. A permanent employee whose service is terminated due to reduction in the workforce or closure of the undertaking shall be paid by way of compensation an amount which shall be not less than two months' pay for every completed year of continuous service or any part thereof in excess of six months:

Provided that no such compensation shall be payable if—

(i) the employer provides the employee with alternative employment with effect from the date of the termination of service at the same remuneration as he was entitled to receive and on the same terms and conditions of service as were applicable to him, immediately before the termination of service;

(ii) the service of the employee has not been interrupted by such alternative employment.

Procedure for retrenchment.

39. Where any employee in an industrial establishment is to be retrenched and he belongs to a particular category of employees in that establishment, in the absence of any agreement between the employer and the employee in this behalf, the employer shall ordinarily retrench the workman who was the last person to have been employed in that category unless for reasons to be recorded the employer retrenches any other employee.

Re-employment.

40. *(1)* An employee whose employment has been terminated owing to reduction of the workforce shall be given priority for re-engagement, to the extent possible, by the employer when he engages employees again provided the need for engagement arises within a period of five years from the date of termination.

(2) When an employee is so re-engaged his seniority shall be refixed in consultation with the recognised union.

(3) The rate of wages of a re-engaged employee shall not be adversely affected as a result of the interruption of his employment, regard being had to differences between his previous occupation and the occupation in which he is re-engaged and to any intervening changes in the structure of wages in the undertaking, establishment or service as the case may be.

Transfer of undertaking.

41. Where the ownership or management of an undertaking is transferred by agreement or by operation of law from the employer in relation to that undertaking to a new employer, every permanent employee shall be entitled to notice and compensation in accordance with the provision of sections 36 and 38 as if he had been retrenched:

Provided that nothing in this section shall apply to an employee in any case where there has been a change of employer by reason of the transfer, if —

(a) the service of the employee has not been interrupted by such transfer;

(b) the terms and conditions of service applicable to the employee after such transfer are not in any way less favourable to him than those applicable to him immediately before the transfer; and

(c) the new employer is under the terms of such transfer or otherwise legally liable to pay to the employee, in the event of his retrenchment, compensation on the basis that his service has been continuous and has not been interrupted by the transfer.

Lay off.

42. (*1*) An employer who lays off any of his employees other than a badli or casual employee shall inform the recognised union as well as the affected employees within one week of the date from which the lay off has become effective explaining the reasons for his decision.

(2) When an employee is laid off he shall be paid by the employer for all the days during which he is laid off, including the weekly and other holidays that may intervene, retaining allowance which shall not be less than seventy-five per cent. of the wages that would have been payable to him had he not been so laid off.

Death of employer.

43. Except where more favourable conditions have otherwise been provided for in the employment contract concerned or in terms of any relevant enactment, including any rules or regulations framed under this code, or in any agreement or determination made or given effect to in terms of any enactment, a contract of employment between an employee and an employer who is an individual shall not be terminated on the death of the employer but shall continue to have effect until the expiry of the period after which it would have been terminated had due notice of termination been given on the day on which the employer died, and during such period the employees shall be entitled to such wages and other benefits as are provided for in the employment contract from the person legally representing the deceased employer in his capacity as such.

Hours of work.

44. (*1*) The normal hours of work of an adult employee shall not exceed eight hours a day or forty-eight hours in a week.

(*2*) The normal hours of work of a young person below the age of eighteen shall not exceed six hours a day or thirty six hours in a week.

(*3*) The limit of the hours of work may be exceeded in case of urgent work to be done to machinery or plant, or in case of an accident, actual or threatened or in case of force majeure, but only so far as may be necessary to avoid serious interference with the ordinary working of the undertaking under intimation to the prescribed authority.

(*4*) The limit of the hours of work may be exceeded temporarily, where necessary, under intimation to the prescribed authority—

(*a*) to prevent the loss of perishable goods or to avoid endangering technical result of the work;

(*b*) to allow for special work such as stock taking, preparation of balance sheets, closure of accounts, etc;

(*c*) to enable establishments to deal with cases of normal pressure of work due to special circumstances in so far as the employer cannot be expected to resort to other measures;

(*d*) to make up time lost through shortages of work due to accidents, interruptions to power supply, inclement weather, shortages of materials or transport facilities and calamities; or

(*e*) in case of war or other emergencies;

(*5*) No employer while prescribing the hours of work shall discriminate between those working in office and elsewhere.

(*6*) The appropriate Government may, where it considers necessary and feasible, after consultation with the representative organisations of employers and employees concerned, and after giving notice of not less than three months, reduce, by notification, the normal hours of work in respect of any activity.

(*7*) No employer shall require an employer or employee or employees to perform overtime work in excess of one hundred hours per year or twenty five hours per quarter and no young person below the age of eighteen years shall be required to perform overtime work.

(*8*) The hours of work shall be so fixed that no adult will be required or allowed to work for more than four hours at a stretch before he has had an interval for rest of not less than half an hour in addition to two recesses of shorter duration and that the total period of work inclusive of the intervals for rest and recesses does not exceed ten hours a day or sixty hours a week.

(*9*) (*a*) The hours of work of a young person below the age of eighteen years shall be so fixed that he will not be required or allowed to work for more than three hours at a stretch before he has had an interval for rest of at least half an hour and that the total period of work inclusive of the interval for rest does not exceed seven hours a day or forty-two hours a week.

(*b*) No young person shall be required or allowed to work during the period from 8 p.m. to 6 a.m. and no other person shall be required to work for more than six hours within this period.

(*c*) Any work performed between 8 p.m. and 6 a.m. shall be considered to be night work; and remuneration for night work shall be more than for work during day time but not less than twenty per cent.

(*d*) Remuneration for overtime work shall be at least twice the ordinary rate.

Period of Rest.

45. (*1*) A rest period of not less than twelve consecutive hours shall be granted between two days of work.

(*2*) Women and young persons who are under eighteen years of age shall have a continuous period of at least fourteen hours of rest.

(*3*) Every employee shall be allowed to enjoy in a period of seven days a period of rest of one whole day with full wages for the day of rest.

(*4*) An employee may be required to work on his rest day in an emergency, but he shall be paid wages for work on a rest day at a rate which shall not be less than twice the ordinary rate.

(*5*) Where an employee is deprived of a weekly holiday for any reason, he shall be allowed compensatory holiday on any other day within two months following the weekly holiday on which he was required to work.

(*6*) Where an employee works on a shift which extends beyond midnight the period of rest shall be fixed in such a way that he will be able to have a full night's rest after working in the night shift.

(*7*) Young persons under eighteen years of age shall be granted uninterrupted rest for two days in every period of seven days with full wages for the days or rest.

Annual leave.

46. (*1*) (*a*) Every employee shall be entitled to annual leave for thirty days provided that if he has worked for less than two hundred and forty days during the year his entitlement to the leave shall be reduced proportionately.

(b) In employment of seasonal nature in which work is not carried out regularly throughout the year an employee shall be entitled to annual leave for fifteen days provided that if he has worked for less than one hundred twenty days during the year his entitlement to the leave shall be reduced proportionately.

(*c*) For the purpose of computation of days of actual work, interruptions in service occasioned by sickness or accident, maternity leave in the case of female employees, lay off, military service, exercise of civil rights and changes in the management of the undertaking in which the person is employed and intermittent involuntary absence or unemployment not exceeding one week at a time shall be deemed; to be days on which the employee worked.

(*2*) An employee may accumulate annual leave upto ninety days:

Provided that where the leave applied for is refused the period so refused, may be added to the accumulation.

Casual leave.

47. Every employee shall be entitled to casual leave on full pay for not exceeding five days in a year.

Educational leave.

48. *(1)* **An employee who has completed ten years of service shall be entitled to educational leave for a period not exceeding two years for acquisition, improvement and adaptation of occupational and functional skills.**

(2) **The employee shall be entitled to full wages for a period upto six months of educational leave.**

(3) **The grant of such leave shall be subject to such conditions as may be prescribed.**

Holidays.

49. Every employee shall be entitled to seven holidays with full wages during a year; the holidays shall include the three National holidays, the first day of May, and three other holidays selected by the management in consultation with the recognised union.

Procedure for grant of leave.

50. The procedure for grant of various kinds of leave shall be such as may be prescribed by the appropriate Government.

Encashment of Annual Leave.

51. (*1*) An employee shall be entitled to encash the annual leave to his credit when he voluntarily relinquishes his office, retires from services or his services are terminated for any reason.

(*2*) If an employee dies while in service his heirs shall be entitled to cash compensation for the annual leave earned by him but not availed of at the time of his death.

(*3*) The cash compensation payable to an employee or, as the case may be, his heirs under this section shall be an amount equal to the wages due to such employee for such period.

Conditions of service of Apprentices.

52. (*1*) A person shall not be engaged for apprenticeship training in any designated trade unless (a) he has attained the age of fifteen years and (b) he satisfies the standards of education and medical fitness as prescribed.

(*2*) No person shall be engaged as an apprentice to undergo apprenticeship training in a designated trade unless such person, or if he is a minor, his guardian has entered into a contract of apprenticeship with the employer.

(*3*) The apprenticeship training shall be deemed to have commenced on the date on which the contract of apprenticeship has been entered into.

(*4*) Every contract of apprenticeship shall contain the terms and conditions of the apprenticeship which shall not be inconsistent with any provisions of this Act or any rule framed thereunder.

(*5*) The contract of apprenticeship shall terminate on the expiry of the training.

(*6*) (*a*) Either party to a contract of apprenticeship may make an application to the Labour Court for termination of the contract;

(*b*) The Labour court on receipt of such application and after giving a hearing to the other party shall pass an order which shall be binding on both the parties subject to the provisions of appeal to the Labour Relations Commission.

(*7*) The employer shall pay to every apprentice during the period of apprenticeship training a stipend at a rate not less than the prescribed minimum rate as may be specified in the contract of apprenticeship and the stipend so specified shall be paid at such intervals and subject to such conditions as may be prescribed.

(*8*) (*a*) The weekly and daily hours of work of an apprentice while undergoing practical training in a workshop shall be such as may be prescribed.

(*b*) No apprentice shall be required or allowed to work overtime.

(*c*) An apprentice shall be entitled to such leave as may be prescribed and to such holidays as are observed in the establishment in which he is undergoing training.

(*9*) In all matters of conduct and discipline the apprentice shall be governed by the rules and regulations applicable to employees of the corresponding category in the establishment in which the apprentice is undergoing training.

(*10*) Any disagreement or dispute between an employer and an apprentice arising out of the contract of apprenticeship shall be referred to the Labour Court for decision.

Welfare.

53. (*1*) **In every establishment there shall be provided and maintained so as to be readily available during all working hours first aid boxes as prescribed by the appropriate Government.**

(2) **In every establishment the employer shall make effective arrangements to provide and to maintain at suitable points conveniently situated for all persons employed therein sufficient supply of wholesome drinking water.**

(3) **In every establishment urinals and latrines shall be provided as prescribed by the appropriate Government.**

(4) **In every establishment where more than twenty-five persons are ordinarily employed for a period likely to continue upto six months or more a canteen with adequate facilities shall be provided by the employer for the use of the employees as prescribed by the appropriate Government.**

(5) **In every establishment employing ten or more persons adequate and suitable facilities for washing shall be provided and maintained for the use of the employees as prescribed by the appropriate Government.**

(6) **In every establishment where women are employed there shall be provided and maintained a creche for the use of children under the age of six years as prescribed by the appropriate Government.**

Housing.

54. *(a)* **It shall be obligatory on every employer in India to take immediate steps to provide housing of the prescribed standards to all his employees commencing with the lowest paid employees within a ten year period so that by the 31st December, 2006, all its employees are so provided with housing.**

(*b*) The employer on such a house being provided to his employee would be entitled to recover an amount not exceeding ten per cent. of the employee's wages every month as rental for the said house.

(c) **Until accommodation is provided as per clause (*a*) the employees shall be entitled to payment of house rent allowance equal to the actual rent paid by them for the accommodation hired by them subject to such ceiling as may be prescribed less ten per cent. of their wages.**

(d) The employees shall vacate the accommodation provided under clause (*a*) on their ceasing to be in service with the employer who has provided the accommodation.

(e) Notwithstanding any provision to the contrary in any law for the time being in force if an employee fails to vacate the accommodation as required under claue *(d)* he shall be liable to be evicted by means of a summary procedure as may be prescribed.

(*f*) Where an employee fails to vacate the accommodation as required under clause *(d)* the employer shall be entitled to withold the payment of all his dues till he vacates the accommodation.

Appropriate Government to provide land, etc.

55. The appropriate Government shall take all steps to provide the requisite land and other infrastructural facilities at reasonable cost for enabling the employer to fulfil his obligations under section 54.

Appropriate Government to relocate areas.

56. The appropriate Government shall have the power, in case it is necessary to do so, to relocate industries or establishments from such areas where the land is available to enable the employer to fulfil his obligations under section 54.

Penalties.

57. Whoever contravenes the provisions of section 54 or any rules made under section 58, shall be punishable with imprisonment for a term not less than six months and or with a fine which may extend to ten thousand rupees, and in the case of continuing contravention with an additional fine which may extend to ten thousand rupees for every day during which such contravention continues after conviction for the first such contravention.

Rules.

58. (*1*)The appropriate Government may, by notification and subject to the condition of previous publication, make rules for carrying out the purposes of sections 54 to 56.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

(a) to provide land at reasonable rates to the employees, for the purpose of construction of workers' housing as provided under this Act;

(b) to make provisions for availability of finance at reasonable rates to encourage construction of houses;

(c) to establish financial institutions and housing boards to accelerate the construction of the houses;

(d) to make necessary amendments in the fiscal laws to afford relief from taxation on expenditure on housing;

(e) to make available results of research and development undertaken by any governmental institution for cost saving technologies in building construction; and

(f) to provide for all other purposes necessary for encouraging housing projects and other facilities for workmen.

CHAPTER IV

WAGES

Fixation of national minimum wage.

59. The Central Government shall fix the national minimum wage.

Fixation of general minimum wage.

60. Every State Government shall fix a general minimum wage payable to the employees employed in employments in the State or in each zone or region thereof, as the case may be.

Revision of minimum wage.

61. *(1)* **The appropriate Government shall review the minimum wage, if necessary, at intervals not exceeding three years.**

(2) **Where for any reason the appropriate Government has not been able to review the minimum wage within a period of three years, the minimum wage shall be deemed to have been reviewed and revised enhancing the same including the cost of living allowance, if any, by fifteen per cent, at the end of the period of three years.**

General minimum wage vis-a-vis the National minimum wage.

62. The General mimimum wage fixed or revised by a State shall in no case be less than the National mimimum wage fixed by the Central Government as revised from time to time.

Minimum wage vis-a-vis wages fixed through collective bargaining etc.

63. Where the minimum wage fixed or revised under this Act is less than the wage fixed or revised through collective bargaining, arbitration, adjudication, wage board or otherwise, the employee shall be entitled to be paid wages at the higher rate applicable to him.

Procedure for fixing and revising minimum wage.

64. *(1)* The appropriate Government shall fix or revise the minimum wage in consultation with or on the recommendations of a tripartite Advisory Board or Advisory Committee appointed for the purpose in such manner as may be prescribed.

(2) Minimum wage may be fixed differently as a time rate, piece rate or as a piece rate combined with a guaranteed time rate and/or as an overtime rate for different localities and for different wage periods, that is, by the hour, day, month or such other longer period as may be prescribed, for different classes of people, namely, adults, adolescents and apprentices.

Structure of the minimum wage.

65. *(1)* The minimum wage shall consist of two elements, namely, a basic rate and an allowance to neutralise the increase in the cost of living, hereinafter referred to in this Act as the cost of living allowance.

(2) Where it is permitted to pay the minimum wage partly in kind, the minimum wage shall have three elements, namely, the basic rate, the cost of living allowance and the cash value of the concessions in respect of essential commodities at concessional rates where so authorised.

Computation of the cash value of commodities supplied.

66. The cash value of the concessions in respect of supplies of essential commodities at concessional rates shall be computed by the appropriate Government in such manner as may be prescribed.

Criteria for fixing and revising minimum wage.

67. In fixing or revising the minimum wage the appropriate Government shall take into consideration only the basic needs of the employees as specified in Schedule IV and the cost of living allowance.

Criteria for fixing and revising the cost of living allowance.

68. The cost of living allowance shall be fixed and revised from time to time in the manner prescribed so as to accord the same with the variations in the cost of living computed on the basis of the consumer price index numbers.

Construction of the Consumer Price Index Numbers.

69. (1) The Central Statistical Authority shall construct the Consumer Price Index Numbers in such manner as may be prescribed for measurement of the variations in the cost of living on a national basis.

(2) Every State Statistical Authority shall construct such additional Consumer Price Index Numbers as may be deemed necessary for measurement of the variations in the cost of living in the State concerned in accordance with the guidelines laid down by the Central Statistical Authority.

Notification of the minimum wage and the effect thereof.

70. (1) The appropriate Government shall by notification in the official Gazette publish the minimum wage fixed or revised by it from time to time.

(2) The minimum wage so published shall come into force from the date of publication of the notification or from the date specified therein which shall not be later than 15 days from the date of such publication and every employer shall be bound to pay to the persons employed by him wages at a rate which shall not be less than the minimum wage so published from the date on which such notification comes into force.

Obligation of the employer.

71. (1) Every employer shall be responsible for the payment to persons employed by him of all wages due to them under the contract, award or agreement.

(2) *(a)* Where an employer enters into contract with another person for the performance of the employers' work, such person being called a contractor, the employee of the contractor shall be paid wages in accordance with the provisions of this Code by the contractor as if the employee is the employee of the principal employer.

(b) The principal employer shall nominate a representative duly authorized by him to be present at the time of disbursement of wages by the contractor and it shall be the duty of the contractor to ensure the disbursement of the wages in the presence of the authorised representative of the principal employer and it shall be the duty of the representative of the principal employer to certify the amount paid as wages in such manner as may be prescribed.

(c) In case the contractor fails to make payment of wages within the prescribed period, or makes short payment, then the principal employer shall be liable to make payment of wages in full or the unpaid arrears, as the case may be, to the employees of the contractor and shall have the right to recover the amount so paid from the contractor either by deduction from the amount payable, if any, to the contractor under any contract or as a debt payable by the contractor.

Form of Payment.

72. (*1*) All wages shall be paid in legal tender, that is, in currency coin or currency notes or both, except where the employee makes a request in writing to make the payment by cheque or postal money order or by crediting the wags in an account in a scheduled bank.

(*2*) The appropriate Government may, if it is of opinion that it is necessary so to do having regard to the circumstances and in public interest, by notification in the official Gazette, for reasons to be recorded therein authorise payment of part of wages in kind, in the form of essential commodities at concessional rates or otherwise, at the option of the employee.

(*3*) Where payment in kind is permitted, the appropriate Government shall prescribe the manner in which the cash value of such payment shall be determined.

Wage Period.

73. (*1*) Wages other than one time, annual or occasional payments, shall be paid regularly and periodically after the last day of the wage period as follows:—

(*a*) in the case of employees who are employed on hourly or daily basis, the wages shall be paid at the end of each day;

(*b*) in the case of employees who are employed on weekly basis, the wages shall be paid on the last day of each week;

(*c*) in the case of employees whose wages are calculated by month, the wages shall be paid on the last day of each month;

(*d*) if the last day of the week or month is a holiday the wages shall be paid on the immediately preceding working day;

(*e*) in the case of employees whose wages are calculated on piece work or output basis, the wages shall be paid not less than twice a month at intervals not exceeding sixteen days;

(*f*) in the case where the employment of an employee is terminated the wages earned by and due to him shall be paid before the expiry of the second working day reckoned from the day on which his employment was terminated;

(*2*) Bonus shall be paid within eight months of the close of the accounting year.

(*3*) Gratuity shall be payable within thirty days from the date it becomes due for payment.

(*4*) One time, annual or other occasional payments such as travelling allowance etc. shall be made within fifteen days of the submission of the claims after they become due.

Payee.

74. Wage shall be paid directly to the employee concerned or to his duly authorised nominee or representative, and if an employee dies without making nomination, the wages due to him shall be paid to his legal heirs.

Time and place of payment.

75. The payment of wages in cash shall be made on working days at or near the work place except as may be otherwise provided by collective agreement or arbitration or where other arrangements known to the employees concerned are considered more appropriate and in order to prevent any abuse, no payment of wages shall be made at liquor shops or similar establishments, shops or stores for the retail sale of merchandise or places of amusement except in the case of personnel employed therein.

Deductions from wages.

76. (*1*) No deduction from the wages of an employee shall be made from the wages except the deductions specified in Schedule V and such deductions shall be made only in accordance with the provisions of this Act.

(*2*) Any payment made by the employee to the employer or his agent shall for purpose of this code be deemed to be a deduction from wages.

(*3*) Any loss of wages resulting from the imposition, for good and sufficient reasons, upon an employee of any penalty in the form of witholding of increments or promotion (including increment at the efficiency bar), reduction to a lower post or time scale or to a

lower stage in a time scale or suspension shall not be deemed to be a deduction from wages provided that the penalty is imposed in accordance with the relevant rules, regulations, laws or standing orders, as the case may be.

(*4*) No fine shall be imposed by an employer on any of his employees and no deduction shall be made from the wages of any employee on account of fine.

(*5*) Deduction from wages for absence from duty shall be in proportion to the period of absence; where the absence is for a period of less than one day deduction shall not exceed one day's wage.

(*6*) If ten or more employed persons, acting in concert, absent themselves from duty, without due notice and without reasonable cause, deduction may be made from the wages of such persons not exceeding the amount of their wages for two days, in lieu of notice.

Explanation:

For the purposes of this section, an employed person shall be deemed to be absent from duty if although present at the place of work he refuses to work being on strike or for any other reason.

(*7*) Deduction of damage to, or loss of, goods shall not exceed, the amount of damage or loss caused to the employer by the neglect or default of the employed person.

*(*8*) No deduction shall be made for damage or loss until the employed person has been given an opportunity of showing cause against the deduction, otherwise than in accordance with such procedure as may be prescribed for the making of such deductions.

(*9*) Deduction on account of house accommodation or amenities or services provided to the employed person shall not be made from the wages of employed person unless the house accommodation, amenity or service has been accepted by him as a term of employment or otherwise, and such deduction shall not exceed an amount equivalent to the rented value of the house accommodation, or the value of amenity or service supplied.

(*10*) Deductions for recovery of advances and the interest thereon shall be subject to the following conditions, namely:—

(a) recovery of an advance of money given before employment may be made from the first payment of wages in respect of a complete wage period, but no recovery shall be made of such advances given for travelling expenses;

(b) recovery of an advance of money given after employment shall be subject to such conditions as the appropriate Government may prescribe;

(c) recovery of advance of wages not already earned shall be subject to rules made by the appropriate government regulating the extent to which such advance may be given and the instalments by which they may be recovered.

(*11*) Deduction for recovery of loans for payment to co-operative societies and for payment of life insurance premia shall be subject to such rules as may be made by the appropriate Government regulating the extent to which such loans may be granted and the rate of interest payable thereon.

(*12*) The total amount of deductions which may be made in any wage period from the wages of any employee shall not exceed.

(a) 75% of the wages in cases where such deductions are made wholly or partly for payments to co-operatives;

(b) 50% in other cases;

(c) where the total amount of deductions authorised exceed 75% or 50%, as the case may be, of the wages the excess may be recovered in such manner as may be prescribed.

77. Wages shall not be attached or assigned in any judicial proceeding, civil, criminal or otherwise. **Attachment and assignment of wages.**

Status of unpaid wages.

78. (*1*) In the event of closure of an undertaking, insolvency of the employer or liquidation of the undertaking the wages due to the employees thereof shall notwithstanding anything contained in any other law be the first charge on the assets of the employer or undertaking and they shall be paid to the employees concerned in full in preference to any other creditor, including government.

(2) In the event of transfer of ownership of an establishment or undertaking the wages due to an employee of the establishment or undertaking on the date of transfer shall, notwithstanding anything contained in any other law for the time being in force, to the contrary, be the first charge on the assets of the establishment or undertaking on the date of transfer, in the hands of the transferee.

Limitation of claim for payment of dues.

79. Any action for the recovery of wages due shall expire if not brought within three years from the date they become payable:

Provided that the competent authority may entertain the claims even after this period if he is satisfied that there was sufficient cause for not making the claim within this period.

Right of the employees for information regarding wages.

80. (*1*) Every employee shall be informed of the conditions in respect of wages under which he is employed before he enters the employment and also whenever they are altered.

(2) At the time of payment, every employee shall be furnished with the particulars of wages paid showing the gross amount due, the deductions made therefrom and the net amount actually paid and also the reasons for such deduction shall be intimated to the employee.

Freedom of the employee to dispose of his wages.

81. Every employee shall be free to dispose of his wages as he deems fit and there shall be no compulsion to make his purchases from or to utilise the services of any particular establishment.

Maintenance of Registers and Records.

82. (*1*) Every employer shall maintain such registers and records as may be prescribed showing particulars of persons employed by him including their permanent as well as their local addresses, the job assigned to them, the wages payable and paid to them, the receipts for the payments made to them and other such matters as may be prescribed.

(2) The registers and records shall be maintained for such period as may be prescribed and shall be available for inspection when called for.

Equal pay for equal work.

83. (*1*) No employer shall pay to any employee employed by him in an establishment or employment, remuneration whether payable in cash or in kind a rates less favourable than those at which remuneration is paid by him to any other employee in the same establishment or employment for performing the same work or work of similar nature.

(2) **Employees appointed on badli, casual or temporary basis or in a project shall be entitled to payment of wages at the same rates as applicable to employees performing the same or similar work on regular basis under the same employer.**

Determination of wages above the minimum wage.

84. Wages at levels above the minimum wage fixed under this Act shall be determined through collective bargaining between the employer and the employees concerned with or without mediation:

Provided that in the event of failure of collective bargaining the wages shall be determined by arbitration or adjudication, under this Act:

Provided further that the appropriate Government may, by notification, in the official gazette, constitute a wage Board when considered necessary for determination of wages above the minimum wage payable to the employees of an activity in consultation with the most representative organisations of employers and employees concerned.

Constitution of Wage Board.

85. *(1)* **A Wage Board shall consist of** *(a)* **the chairman,** *(b)* **two members representing the employers,** *(c)* **two members representing the employees, and** *(d)* **two other independent persons not connected with the activity.**

(2) *(a)* The chairman shall be appointed by the appropriate Government in consultation

with the Chief Justice of the High Court concerned or Supreme Court of India, as the case may be.

(b) Any person who is or has been or is eligible to be appointed as a Judge of the High Court shall be qualified for appointment as the chairman of a wage Board.

(3) The members representing the employers shall be appointed by the appropriate Government on the recommendation of the most representative organisations of the employers in the activity.

(4) The members representing the employees shall be appointed by the appropriate Government on the recommendation of the most representative organisations of the employees in the activity.

(5) Persons who have distinguished themselves or are known to have made valuable contribution in the field of Social Sciences or Public Administration or Consumer Protection shall be appointed by the appropriate Government as independent members of the wage board.

Functions of the Wage Board.

86. *(1)* The primary function of the Wage Board shall be to determine the wages payable to the employees of the activity.

(2) The appropriate Government or the recognised organisations of employers and employees, by mutual agreement, may refer, to the Wage Board any other matter for determination.

Procedure of the Wage Board.

87. The Wage Board shall follow such procedure as may be prescribed:

Provided that where the appropriate Government has not prescribed any procedure the Wage Board may evolve its own procedure.

Criteria for the award of the Wage Board.

88. The Wage Board shall have regard to the needs of the workers, cost of living, the prevalent rates of wages for comparable employments, capacity to pay, level of employment and other relevant factors including public interest in making its award.

Award of the Wage Board.

89. *(1)* The award of the Wage Board shall be based on the majority opinion and shall be in writing and signed by the members including the chairman.

(2) The award shall be final and shall not be called in question by any Court in any manner whatsoever but an appeal may be filed against the award before the National Labour Relations Commission.

(3) The award shall come into force with effect from such date as may be specified therein and if no date is specified it shall come into force on and from the date on which it is signed.

(4) The award of the Wage Board shall be binding on all persons who were employed in the activity on the date on which it is signed and all persons who subsequently become employed therein and all their employers including the heirs or successors and assignees of the employers.

(5) An award of the wage board shall remain in operation for a period of three years and it may be extended for such further period as may be decided by mutual agreement between the parties.

Enforcement of the award.

90. After the award of the Wage Board has come into force, every employee of the activity shall be entitled to be paid wages in terms of the award and every employer of the activity shall be liable to pay wages at rates which shall in no case be less than the rates of the award, provided that if the wages of an employee are higher than the wages due as per the award he shall be entitled to continue to draw higher wages, at his option.

Bonus.

91. *(1)* Every employer shall pay to every employee in respect of every accounting year a minimum bonus which shall not be less than 8.33 per cent of the wages earned by him during the accounting year or one hundred rupees whichever is higher in addition to all other emoluments he may be entitled to as part of the conditions of his employment, provided that the employee has worked with the employer for not less than thirty working

days in that year.

(*2*) The employees of an establishment may be paid bonus in excess of the minimum through a collective agreement with their employer on the basis of profit, production, productivity or any other basis:

Provided that the total amount of bonus payable to an employee, on whatever basis and by whatever name called, shall not exceed twenty per cent. of the wages earned by him.

(*3*) For the purposes of this section the term 'wages' shall not include the following namely:—

(a) any allowance other than dearness allowance;

(b) value of any house accommodation, light, water, medical allowance or other amenity or service provided by the employer;

(c) any travelling concession;

(d) any bonus (including incentive, production and attendance bonus);

(e) any contribution paid or payable to a pension fund, any retrenchment compensation, gratuity or other retirement benefit payable to the employee;

(f) any ex-gratia payment made to the employee; and

(g) any commission payble to the employee.

CHAPTER V

SAFETY, HEALTH AND WORK ENVIRONMENT

National policy on occupational safety, health and work environment.

92. (*1*) The Central Government shall, in consultation with the National Commission on Safety, Health and Work Environment hereinafter called the National Commission formulate and periodically review a coherent, national policy on occupational safety, health and the work environment.

(*2*) The aim of the policy shall be to prevent accidents and injury to health arising out of, or linked with, or occurring in the course of work or employment by minimizing, so far as is reasonably practicable, the causes of hazards inherent in the work environment.

(*3*) The policy shall take into account of the following main spheres of action in so far as they affect occupational safety and health and the work environment, namely:—

(a) design, testing, choice, substitution, installation, transportation, arrangement, use and maintenance of the material elements of work such as workplaces, work environment, tools, machinery and equipment; chemical, physical and biological substances and agents, and work processes;

(b) relationship between the material elements of work and the persons who carry out or supervise the work, and adaptation of machinery, equipment, working time, organisation of work and work processes to the physical and mental capacities of the employees;

(c) training, including necessary further training, qualifications and motivations of persons involved, in whatever capacity, in the achievement of adequate levels of safety and health;

(d) communication and co-operation at the levels of the working group and the undertaking and at all other appropriate levels upto and including the national level; and

(e) the protection of employees and their representatives from disciplinary measures as a result of actions properly taken by them in conformity with the prescribed standards.

Review of situation.

93. The situation regarding occupational safety and health and the work environment shall generally be reviewed at intervals not exceeding five years with a view to identifying the major problems, evolving effective methods for dealing with them, determining priorities of action and evaluating results.

National Commission of Safety and health to set standards for safety and health.

94. (*1*) The National Commission shall set the standards of safety and health in respect of every activity where there is risk to the safety and/or health of the persons employed therein and/or the public in the form of regulations, codes of practice or other types of provisions, after consultation with the Central and the State Boards Safety and Health and Advisory Committee concerned and in conformity with the national policy.

(*2*) There shall be separate set of regulations for each type of activity or each class of establishments and they shall be issued within a period of three years from the commencement of this Code and reviewed in the light of experience and advances in science and technology at intervals not exceeding five years and revised if necessary.

(*3*) For purposes of framing or revising the regulations, the National Commission shall appoint as many advisory committees and set up as many research institutions and laboratories, as it may consider necessary, to advise and to conduct enquiries, studies and tests.

(*4*) The National Commission shall monitor the safety and health situation and work environment in the country, from time to time, and advise the appropriate Governments on the measures to be taken to improve the same.

(*5*) The National Commission shall submit to the Central Government annually a report on the safety and health situation and work environment and the Central Government shall cause the report to be laid before Parliament.

Central and State Boards of Occupational Safety and Health.

95. (*1*) The Central Board of Safety and Health established under section 192, in respect of the activities for which the Central Government is the appropriate Government and the State Boards of Safety and Health established under the said section in respect of other activities shall take appropriate steps for effective implementation of the standards set by the National Commission under section 94 from time to time.

(*2*) In achieving this objective, the Board shall—

(*a*) undertake or promote studies and research into the incidence of occupational hazards, measures taken to prevent them and further measure to be taken;

(*b*) provide information and advice to employers regarding the occupational hazards and the preventive and curative measures prescribed;

(*c*) organise programmes of education and training relevant to the protection of the safety and health of the employees at work and the work environment;

(*d*) hold enquiries into occupational accidents, occupational diseases or other injuries to health of serious nature which may arise in the course of or in connection with work;

(*e*) function as clearing houses for exchange of information concerning occupational hazards and their prevention.

(*3*) Where the Central Board or the State Board, as the case may be, is of opinion that any manufacturing process or operation hereinafter referred to in this section as "operation", carried out in an establishment exposes any person employed in it to a serious risk of bodily injury, poisoning or disease, it may make rules, applicable to that establishment or class of establishments in which the manufacturing process or operation is carried on;

(*a*) specifying the operation and declaring it to be dangerous;

(*b*) prohibiting or restricting the employment of women, adolescents or children in the operation;

(*c*) providing for the periodical medical examination of persons employed or to be employed in the operation and prohibiting the employment of persons not

certified as fit for such employment and requiring the payment by the occupier of the factory of fees for such medical examination;

(*d*) providing for the protection of all persons employed in the operation or in the vicinity of the places where it is carried on;

(*e*) prohibiting, restricting or controlling the use of any specified materials or process in connection with the operation;

(*f*) requiring the provisions of additional welfare amenities and sanitary facilities and the supply of protective equipment and clothing and laying down the standards thereof having regard to the dangerous nature of the manufacturing process or operations.

Power of the Boards to order enquiry.

96. (*1*) Without prejudice to the generality of the provisions of sub-section (2) (d) of section 95 the Central or a State Board, as the case may be, appoint a competent person to inquire into the causes of any accident occurring in an establishment or into any case where a disease specified in Schedule VI has been or is suspected to have been contacted in an establishment and may also appoint one or more persons possessing legal or special knowledge to act as assessors in such enquiry.

(*2*) The person appointed to hold an enquiry shall have all the powers of a Civil Court under the Code of Civil Procedure, for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects and may also, so far as may be necessary for the purposes of the enquiry, exercise any of the powers of an Inspector under this code and every person required by the person making the enquiry to furnish any information shall be deemed to be legally bound so to do within the meaning of Section 176 of the Indian Penal Code. 5 of 1908. 45 of 1860.

(*3*) The person holding an enquiry shall make a report to the Board stating the causes of the accident or, as the case may be, disease, and any attendant circumstances and adding any observations which he or any of the assessors may think fit to make.

(*4*) The Board may, if it thinks fit, cause to be published any report made under this section or any extracts therefrom.

(*5*) The appropriate Government may make rules for regulating the procedure for conducting the enquiries.

Power of the Boards to appoint Inquiry committees.

97. (*1*) The Central Board or a State Board, as the case may be, in the event of the occurrence of an extraordinary situation involving an establishment engaged in a hazardous process, appoint an Inquiry Committee to inquire into the standards of health and safety observed in the establishment with a view to finding out the causes of any failure or neglect in the adoption of any measures or standards prescribed for the health and safety of the workers employed therein or the general public affected or likely to be affected due to such failure or neglect and for the prevention and recurrence of such extraordinary situation in future in such establishment or elsewhere.

(*2*) The Committee appointed under clause (a) shall consist of a chairman and two other members and the terms of reference of the Committee and the tenure of office of its members shall be such as may be determined by the Board according to the requirement of the situation.

(*3*) The recommendations of the Committee shall be advisory in nature.

(*4*) The Board shall consider the recommendations of the Committee and pass necessary orders within three months from the date of submission of the report by the Commitee.

Emergency standards.

98. (*1*) Where the Central Board or a State Board, as the case may be, is satisfied that no standards of safety have been prescribed in respect of a hazardous process or class of hazardous processes or where the standards prescribed are inadequate it may direct any authority or institution specialised in matters relating to standards of safety in hazardous processes to lay down emergency standards for enforcement in respect of such hazardous processes.

(2) The emergency standards laid down under sub-section (1) shall be incorporated in the rules or regulations and till such time be enforceable as if they had been incorporated in the rules or regulations.

General obligations of the employers towards the employees.

99. (*1*) Every employer shall ensure, so far as is reasonably practicable, the health, safety and welfare of all employees employed by him while they are at work.

(2) Without prejudice to the generality of the provisions of sub-section (*1*), the matters to which such responsibility shall extend, includes—

(a) the provision and maintenance of plant and system of work that are safe and without risk to health;

(b) the arrangements in the workplace for ensuring safety and absence of risk to health in connection with the use, handling, storage and transport of articles and substances;

(c) the provision of such information, instruction, training and supervision as are necessary to ensure the health and safety of all employees at work;

(d) the maintenance of all places of work in a condition that is safe and without risk to health and the provision and maintenance of means of access to and egress from such places in a condition that is safe and without risk;

(e) the provision, maintenance of monitoring of such work environment in the workplace which is safe without risk to health of the employees and which has adequate facilities and arrangements for their welfare at work;

(f) the provision, where necessary, of adequate protective clothing and protective equipment to prevent risk of accidents or of adverse effects on health.

(*3*) Except in such cases as may be prescribed, every employer shall prepare and, as often as may be appropriate, revise, a written statement of his general policy with respect to the health and safety of the employees at work and the organisation and arrangements for the time being in force for carrying out that policy, and bring the statement and any revision thereof to the notice of all the employees in such manner as may be prescribed.

(*4*) Where an employer enlists the services of an external organisation or person, it shall not absolve him of his responsibilities for the safety and health of the persons working in his establishment.

(*5*) The obligation of the employees in the field of safety and health at work shall not affect the principle of the responsibility of the employer.

(*6*) Employees belonging to particularly sensitive risk groups shall be protected against dangers which specifically affect them.

(*7*) The arrangements and provisions for the protection of the health, safety and welfare of the employees in an establishment shall be adjusted from time to time to changing circumstances aimed at improving the same.

(*8*) Where several undertakings share a workplace, the employers shall be jointly and severally responsible for ensuring the safety and health of their employees and shall cooperate with each other in implementing the safety, health and occupational hygiene provisions and, taking into account the nature of their activities, shall co-ordinate their actions in matters of protection of their employees and prevention of occupational risks.

(*9*) *(a)* Every employer shall appoint or designate one or more of his employees or other persons by notification as safety officers to carry out such activities related to the protection of the safety and health of his employees and prevention of occupational risks in the establishment, as may be prescribed.

(b) where an employer has no employee who can be appointed as a Safety Officer, he may engage a consultancy organisation for the purpose, or two or more employers may appoint a Safety Officer jointly.

(*10*) The Safety Officers shall not be placed at any disadvantage because of their activities related to that work and that they shall be allowed adequate time and provided with necessary training and facilities to perform their jobs in connection with the protection of the safety and health of the employees and prevention of occupational risks.

(*11*) Every employer shall take necessary measures for first aid, fire-fighting and evacuation of employees, adapted to the nature of the activities and the size of the establishment and taking into account the presence of other persons, arrange for any necessary contacts with external services and in particular as regards first aid, emergency medical care, rescue work and fire-fighting.

(*12*) The employer shall designate one or more employees for providing first aid, fire-fighting and evacuation of employees, so, however, the number of employees so designated, their training and the equipment available shall, taking into account the number of the employees and the nature and size of the establishment and the specific hazards involved therein, be adequate for the purpose.

(*13*) The employer shall—

(*a*) as soon as possible, inform all employees who are, or may be exposed to serious and imminent danger of the risk involved and of the steps taken or to be taken for their protection;

(*b*) take action and give instruction to enable the employees in the event of serious, imminent and unavoidable danger to stop work or immediately to leave the workplace and to proceed to a place of safety;

(*c*) refrain from asking employees to resume work in a working situation where a serious and imminent danger still persists, save in exceptional circumstances and for valid reasons.

(*14*) Employees who, in the event of serious, imminent and unavoidable danger leave their work station or a dangerous area may not be placed at any disadvantage because of their action and shall be protected against any adverse consequences.

(*15*) The employer shall ensure that all employees who (i) in the event of serious and imminent danger to their own safety and that of other persons; and (ii) where the immediate superior responsible to deal with the situation is not readily available, take appropriate steps in the light of their knowledge and the technical means at their disposal for avoiding the consequences of such danger are not placed at any disadvantage unless it is proved that they acted carelessly or that there was negligence on their part.

(*16*) The employer shall—

(*a*) be in possession of an assessment of the risks to safety and health at work, including those facing groups of employees exposed to particular risks;

(*b*) keep a list of occupational accidents resulting in a worker being unfit for work for more than three working days;

(*c*) draw up reports on occupational accidents suffered by his employees and submit them in such manner and to such authority or person as may be prescribed.

(*17*) Without prejudice to the generality of the provision in clause (c) of sub-section (13)—

(*i*) where in any establishment, other than a mine, an accident occurs which causes death or any bodily injury by reason of such injury the person injured is prevented from working for a period of forty eight hours or more immediately following the accident or which is of such nature as may be prescribed in this behalf;

(*ii*) where in or about a mine there occurs—

(*a*) an accident causing death or serious bodily injury,

(*b*) an explosion ignition, spontaneous heating outbreak of fire or in rush of water or other liquid matter,

(c) an influx of inflammable or noxious gases,

(d) a breakage of ropes, chains, or other gear by which persons or materials are lowered or raised in a shaft or an incline,

(e) an overwinding of cages or other means of conveyance in any shaft while persons or materials are being lowered or raised,

(f) a premature collapse of any part of the workings, or

(g) such other accident as may be prescribed–

the employer or his representative shall give notice of the occurrence to such authority, in such form and within such time as may be prescribed, and he shall also immediately post one copy of the notice on a special notice board in the manner prescribed at a place where it may be inspected by trade union officials and employees.

(*iii*) Where the notice given under clause (*ii*) related to an accident causing death the authority shall make an inquiry or cause an enquiry to be made into the occurrence within two months of the receipt of the notice or if such authority is not the inspector cause the Inspector to make an enquiry within the said period.

(*iv*) The appropriate Government may make rules for regulating the procedure regarding the notice to be issued and the enquiries to be conducted under the section.

(*v*) Where in an establishment any dangerous occurrence of such nature as may be prescribed occurs whether causing bodily injury or disability or not, the manager of the establishment shall send notice thereof to such authorities and in such form and within such time as may be prescribed.

(*18*) The employer shall take appropriate measures so that employees or their representative in the undertaking and establishment receive all such necessary information as may be prescribed concerning the safety and health risks, protective and preventive measures in respect of both the undertaking and establishment in general and each type of work stations and job.

Consultation with and participation of employees.

100. (*1*) Employers shall consult their employees or their representatives and allow them to take part in discussion on all questions relating to safety and health at work, including proposed changes in work processes.

(*2*) For the purpose of sub-section (1), safety committees shall be set up as prescribed and the committees shall be consulted on all matters relating to health and safety.

(*3*) The employees or their representatives shall not be placed at a disadvantage because of any act aimed at protecting the workers against any risk to their safety or health or preventing such risk.

(*4*) Employees or their representatives are entitled to appeal to the authority responsible for safety and health protection at work if they consider that measures taken and the means employed by the employer are inadequate for the purpose of ensuring safety and health at work, as prescribed.

(*5*) Employees' representatives shall be given opportunity to submit their observations during inspection or visits by the competent authority as prescribed.

Training of employees.

101. (*1*) The employer shall ensure that each employee receives adequate safety and health training, in the form of information and instruction specific to his work station or job–

(a) on recruitment;

(b) in the event of a transfer or change of job;

(c) in the event of the introduction of new equipment or change in equipment;

(d) in the event of the introduction of any new technology.

(2) The training shall be adapted to take account of new or changed risks and shall

be repeated periodically.

Explanation:

Employees' representatives with a specific role in protecting the safety and health of employees shall be entitled to appropriate training.

Compulsory disclosure of information in case of hazardous processes.

102. *(1)* Without prejudice to the generality of the provision in sub-section (3) of section 95, the employer of every establishment involving a hazardous process shall disclose in the manner prescribed all information regarding dangers including health hazards and the measures to overcome such hazards arising from the exposure or handling of the materials or substances in the manufacture, transportation, storage or other processes to the licensing authority, before the licence to the establishment is given, and subsequently to the employees employed in the undertaking, the Inspector concerned, the local authority within whose jurisdiction the establishment is situated and the general public in the vicinity.

(2) The information furnished under sub-section *(1)* shall include information as to the quantity, specifications and other characteristics of wastes and the manner of their disposal.

(3) The employer of establishment shall at the time of registering the factory or other establishment involving a hazardous process lay down a detailed policy with respect to the health and safety of the persons employed therein and intimate such policy to the persons employed therein and intimate such policy to the Chief Inspector and the local authority and thereafter, at such intervals as may be prescribed, inform the Chief Inspector and the local authority of any change made in the said policy.

(4) Every employer shall with the approval of the Chief Inspector draw up an on-site emergency plan and detailed disaster control measures for his establishment and make known to the persons employed therein and to the general public living in the vicinity of the establishment the safety measures required to be taken in the event of an accident taking place.

(5) Every employer of an establishment which is already registered, if it is engaged in a hazardous process on the commencement of this code or if it proposes to engage in a hazardous process at any time after such commencement shall within a period of thirty days of the commencement of the code or the process inform the Chief Inspector of the nature and details of the process in such form and in such manner as may be prescribed.

(6) The employer of an establishment involving a hazardous process shall with the previous approval of the Chief Inspector lay down measures for the handling, usage, transportation and storage of hazardous substances inside of the establishment premises and publicize them in the manner prescribed among the employees and the general public living in the vicinity.

(7) If the employer of an establishment contravenes any of the provisions of this section, the licence issued to such factory or other establishment shall in addition to any penalty to which he shall be subject, be liable for cancellation, or suspension for such period as the Chief Inspector may consider to be appropriate.

(8) Every employer of an establishment involving any hazardous process shall—

(a) maintain accurate and up-to-date health records or, as the case may be, medical records, of the workers in the factory who are exposed to any chemical, toxic or any other harmful substances which are manufactured, stored, handled or transported and such records shall be accessible to the workers subject to such conditions as may be prescribed;

(b) appoint persons who possess qualifications and experience in handling hazardous substance and are competent to supervise such handling within the establishment and to provide at the working place all the necessary facilities for protecting the workers in the manner prescribed:

Provided that where any question arises as the qualifications and experience of a person so appointed, the decision of the Chief Inspector shall be final;

(*c*) Provide for medical examination of every worker—

(*i*) before such worker is assigned to a job involving the handling of, or working with, a hazardous substance, and

(*ii*) while continuing in such job, and after he has ceased to work in such job, at intervals not exceeding twelve months, in such manner as may be prescribed.

General obligations of persons concerned with premises to persons other than their employees.

103. (*1*) The provision of this section shall apply to those persons who not being employees use the premises made available to them as a place of work or as a place where they may use plant or substances provided for their use there.

(2) It shall be the duty of each person who has, to whatever extent it may be control of premises to which this section applies or of the means of access there to or egress there from or of any plant or substance in such premises, to take such measures as it is reasonable for a person in his position to take to ensure so far as is reasonably practicable, that the premises, all means of access thereto or egress therefrom, available for use by persons using the premises, and any plant or substance in the premises or, as the case may be, provided for use there, are safe and without hazards to safety or health.

(*3*) Where a person has, by virtue of any contract or tenancy, an obligation of any extent in relation to—

(*a*) the maintenance or repair of any premises to which this section applies or any means of access thereto or egress therefrom; or

(*b*) the safety of or the absence of hazards to health arising from plant or substances in any such premises:

that person shall be treated, for the purposes of sub-section (2) as being a person who has control of the matters to which his obligation extends.

(*4*) Any reference in this section to a person having control of any premises or matter shall be construed as a reference to a person having control of the premises or matter in connection with the carrying on by him of a trade, business or other undertaking, whether for profit or not.

General duties of employers and self-employed to persons other than their employees.

104. (*1*) It shall be the duty of every employer to conduct his establishment in such a way as to ensure, so far as is reasonably practicable, that persons not in his employment are not exposed to hazards to their safety or health.

(*2*) It shall be the duty of every employer and every self-employed person, in the circumstances and manner prescribed, to give to persons (not being his employees) who may be affected by the way in which he conducts his establishment such information as may be prescribed about such aspects of the way in which he conducts his undertaking as might affect their safety or health.

General duties of employees.

105. (*1*) It shall be the responsibility of each employee to take care, as far as possible of his own safety and health and that of other persons affected by his acts at work in accordance with the training and the instructions given by his employer.

(2) To this end, every employee shall in particular and in accordance with the training and instruction given by the employer—

(*a*) make correct use of machinery, apparatus, tools, dangerous substances, transport equipment and other means of production;

(*b*) make correct use of the personal protective equipment supplied to him;

(*c*) refrain from disconnecting, changing or removing arbitrarily safety devices fitted to machinery, apparatus, tools, plant and buildings, and use such safety devices correctly;

(*d*) immediately inform the employer or the employees with specific responsibility for the safety and health of employees of any work situation where

they have reasonable grounds for apprehension of a serious and immediate danger to safety and health and of any short coming in the protective arrangement;

(e) co-operate with the employer and employees with specific responsibility for the safety and health of employees for as long as may be necessary to enable any task or requirement imposed by the competent authority to protect the safety and health of employees at work to be carried out;

(f) co-operate with the employer and other employees with specific responsibility for the safety and health of employees for as long as may be necessary to enable the employer to ensure that the work environment and working conditions are safe and pose no risk to safety and health within their field of activity.

Rights of employees.

106. *(1)* Every employee shall have the right to:—

(a) obtain from the employer information relating to safety at work; and

(b) represent to the employer directly or through the employees' representative regarding inadequate provision for protection of his safety or health in the work place or in connection with the work activity.

(2) (a) Where the employees in any work place have reasonable apprehension that there is a likelihood of imminent danger to their lives or health, they may bring the same to the notice of the employer or his representative who is incharge of the factory or the process concerned directly or through their representatives and simultaneously bring the same to the notice of the Inspector.

(b) The employer or his representative incharge of the factory or process shall take immediate remedial action if he is satisfied about the existence of such imminent danger and send a report forthwith of the action taken to the prescribed authority.

(c) If employer or his representative incharge of the factory or process is not satisfied about the existence of any imminent danger as apprehended by his employees, he shall, nevertheless refer the matter forthwith to the prescribed authority whose decision on the question of the existence of such imminent danger shall be final.

Occupational Health Service.

107. *(1)* **Every employer employing five hundred or such other lower number of employees as the National Commission may prescribe shall organise an occupational health service.**

Explanation:

The term occupational health service means service entrusted with essentially preventive functions and responsible for advising the employer, the employees and their representatives in the undertaking as to—

(i) the requirements for establishing and maintaining a safe and healthy work environment which will facilitate optional physical and mental health in relation to work;

(ii) the adaptation of work to the capabilities of employees in the light of their state of physical and mental health;

(2) **The appropriate Government shall organise an occupational health service for the benefit of employees in undertakings employing less than five hundred persons.**

(3) The purpose of the occupational health service shall be to—

(i) protect the employees against any health hazard which may arise out of their work or the conditions in which it is carried on;

(ii) contribute towards the employees physical and mental adjustment, in particular, by the adaptation of the work to the employees and their assignment to jobs for which they are suited; and

(*iii*) contribute to the establishment and maintenance of the highest possible degree of physical and mental well-being of the employees.

(*4*) The occupational health service shall have such of the following functions as are adequate and appropriate to the occupational risks of undertaking, namely:—

(*i*) identification and assessment of the risks from health hazards in the workplace;

(*ii*) surveillance of the factors in the working environment and practices which may affect employees' health, including sanitary installations, canteens and housing where these facilities are provided by the employer;

(*iii*) advice on planning and organisation of work, including the design of workplace; on the choice, maintenance and condition of machinery and other equipment and on substances used in work;

(*iv*) participation in the development of programmes for the improvement of working practices as well as testing and evaluation of health aspects of new equipment;

(*v*) advice on occupational health, safety and hygiene and on ergonomics and individual and collective protective equipment;

(*vi*) surveillance of employees' health in relation to work;

(*vii*) promoting the adaptation of work to the employee;

(*viii*) contribution to measures of vocational rehabilitation;

(*ix*) collaboration in providing information, training and education in the fields of occupational health and hygiene and ergonomics;

(*x*) organising of first aid and emergency treatment; and

(*xi*) participation in analysis of occupational accidents and occupational diseases.

Notification of occupational diseases.

108. The National Commission shall notify from time to time occupational diseases with a view to:—

(*a*) Initiate measures for prevention of and protection against such diseases and ensuring their effective implementation;

(*b*) investigate the working conditions and other circumstances which have caused or are likely to have caused occupational diseases;

(*c*) compile statistics of occupational diseases; and

(*d*) allow the initiation or development of measures designed to ensure that victims of occupational diseases receive compensation provided for such diseases.

Medical examination.

109. (*1*) Every employee shall be subject in such manner as may be prescribed, to—

(*a*) medical examination carried out shortly before or shortly after the employee enters employment;

(*b*) a medical examination thereafter at such periods as may be prescribed with a view to:—

(*i*) detecting as early as possible signs of a particular occupational disease, or of special susceptibility to that disease;

(*ii*) ascertaining whether, so far as risk of a particular occupational disease is concerned, there are medical objections to the employment or continued employment of the employee in a particular occupation.

(*2*) Medical examinations made in accordance with this provision shall not involve any expenses for the employee concerned.

(*3*) The employee shall be given time off from duty for attending the medical examination.

Notice of diseases.

110. (*1*) Where any employee in any establishment contracts any disease specified in Schedule VI the manager of the establishment shall send notice thereof to such authorities and in such form and within such time as may be prescribed.

(*2*) If any medical practitioner attends on a person who is, or has been employed in an establishment and who is, or is believed by the medical practitioner to be suffering from any disease specified in Schedule VI the medical practitioner shall without delay send a report in writing to the prescribed authority stating (*i*) the name and postal address of the patient; (*ii*) the disease from which he believes the patient is suffering; (*iii*) the name and address of the factory or other establishment in which the patient is or was last employed.

(*3*) Where the report under sub-section (*2*) confirm to the satisfaction of the prescribed authority by the certificate of certifying surgeon or otherwise, that the person is suffering from a disease specified in Schedule VI the employer shall pay to the medical practitioner such fee as may be prescribed and in case of default the fee shall be recoverable as an arrear of land revenue from the occupier of the factory or other establishment in which the person contacted the disease.

(*4*) If any medical practitioner fails to comply with the provisions of sub-section (2) he shall be punishable with fine which may extend to rupees ten thousand.

Safety and occupational health surveys.

111. (*1*) The prescribed authority may at any time during the normal working hours of an establishment, or at any other time as is found by him to be necessary, after giving notice in writing to the employer or his representative who for the time being purports to be incharge of the factory, mine or other establishment undertake safety and occupational health surveys and such employer or his representative shall afford all facilities for such surveys including facilities for the examination and testing of plant and machinery and collection of samples and other data relevant to the survey.

(*2*) For the purpose of facilitating surveys under sub-section (*1*), every worker shall if so required by the person conducting the survey present himself to undergo such medical examination as may be considered necessary by such person and furnish all information in his possession and relevant to the survey.

(*3*) Any time spent by an employee for undergoing medical examination or furnishing information under sub-section (*2*) shall, for the purpose of calculating wages and extra wages for overtime work be deemed to be time during which such employee worked in the factory.

Explanation—For the purpose of this sub-section, the report if any submitted by the person conducting the survey shall be deemed to be a report submitted by an Inspector under this code.

CHAPTER VI

LABOUR RELATIONS

Trade Unions and employers' Associations

Freedom to form or to join trade union.

112. (*1*) All employees without any distinction whatsoever are free to form or to join a trade union of their own choice without previous authorization.

(*2*) A trade union may be formed in respect of an establishment, activity, or a geographical area; the activity may be industrial, agricultural or otherwise.

(*3*) All trade unions are free to form or to join any association, federation or confederation of their own choice including an international organisation of employees.

Freedom to form or to join employers' association.

113. (*1*) All employers, without any distinction whatsoever, are free to form or to join an employers' association of their own choice without previous authorization.

(*2*) An employers' association may be formed in respect of any activity or a geographical area, the activity may be industrial, agricultural or otherwise.

(*3*) All associations of employers are free to form or to join any federation or confederation of their own choice including an international organisation of employers.

Registration of trade unions.

114. No trade union shall be registered unless it has a membership of not less than ten per cent. of the employees of the establishment, activity or the area as the case may be or one hundred persons whichever is lower, and in no case shall the membership be less than seven.

Registration of employers' associations.

115. No employers' association shall be registered unless it has a membership of not less than ten per cent. of the employers employing not less than ten per cent. of the total number of employees of the activity or area.

Procedure for registration and fresh registration.

116. (*1*) Every application for registration as a trade union or as an employers' association shall be made to the Registrar concerned in writing stating the name of the proposed union or association and its objectives and signed by a minimum of two persons representing the applicants.

(*2*) Every such application shall be accompanied by—

(*a*) a list of applicants of the proposed trade union or association stating in each case the specific occupation of the members and the locality in which they work;

(*b*) a list of the representatives or the officers of the proposed unions or associations including their names, ages, addresses, occupations and designations;

(*c*) evidence in writing that a majority of the members of the group desires that it should be registered as a union or association which shall be in the form of a resolution passed by the majority of the members present at a general meeting specially called in accordance with the rules of the union or association for the purpose or in any other manner which in the opinion of the Registrar is adequate evidence of the majority of the members being desirous of forming such a union or association.

(*d*) three copies of the rules or by-laws of the proposed union or association.

(*3*) Where a trade union or an employers' association has been in existence for more than one year before making the application for its registration, there shall be delivered to the Registrar together with the application, a general statement of the assets and liabilities of the union or association prepared in such form and containing such particulars as may be prescribed.

(*4*) The Registrar shall after making such enquiry and after calling for such information as may be necessary within a period which may not exceed sixty days from the date of receipt of the application shall pass an order either allowing or rejecting it.

(*5*) If the name under which a trade union or employers' association is proposed to be registered is identical with that by which any other existing union or association has been registered or, in the opinion of the Registrar so nearly resembles such name as to be likely

to deceive the public or the members of either the union or association, the Registrar shall require the persons applying for registration to alter the name of the union or association stated in the application, and shall refuse to register the union or association until such alteration is made.

(*6*) The Registrar after issue of an order allowing an application shall register the union or association by entering in a register to be maintained in such form as may be prescribed the particulars relating to the union or association contained in the application for registration.

(*7*) The Registrar on registering a union or an association shall issue a certificate of registration in the prescribed form within a period of sixty days which shall be conclusive evidence that the union or association has been duly registered under this Act.

(*8*) Every trade union registered under the Trade Unions Act, 1926, or any other law, before the commencement of this Act shall until the expiry of six months from such commencement be deemed to be a registered trade union for the purpose of this Act. 16 of 1926.

(*9*) Every trade union registered under the Trade Unions Act, 1926, or any other law, before the commencement of this Act, may apply for registration under this Act and where such trade union does not make any such application it shall, on the expiry of six months from the commencement of this code, be deemed to be not a registered trade union for the purpose of this Act:

Provided that the Registrar may, after he has received an application for the fresh registration of the trade union under this sub-section, direct that the trade union shall be deemed to be a registered trade union under this Act until he takes a final decision on such application granting or refusing to grant registration to the trade union under this Act.

(*10*) The Registrar shall, before the expiry of three months from the commencement of this Act, serve on every craft or category-wise trade union registered under the Trade Unions Act, 1926, or any other law before the commencement of this Act, a notice requiring such trade union—

(*a*) to amalgamate with a trade union registered or deemed to be registered under this Act, or

(*b*) to allow membership of all categories of employees, within a period of three months from the service of such notice on the trade union.

(*11*) Where any craft or category-wise trade union fails or refuse to comply with the notice under sub-section (*10*) within the period specified thereof in that sub-section, it shall cease to be a registered trade union for the purpose of this Act.

Cancellation of Registration.

117. (*1*) A certificate of registration of a union or an association may be withdrawn or cancelled by the Registrar—

(*a*) on the application of the union or association to be verified in such manner as may be prescribed; or

(*b*) if the Registrar is satisfied that the certificate has been obtained by fraud or mistake, or that the union or association has ceased to exist or has wilfully after notice from the Registrar contravened any provision of this code or allowed any rule to continue in force which is inconsistent with any such provision or has restored any rule providing for any matter which is required to be provided for under this Act.

(*2*) Before withdrawal or cancellation of registration in any case otherwise than on the application of the union or association, the Registrar shall issue notice to the union or association concerned specifying the ground on which it is proposed to withdraw or cancel the certificate giving it an opportunity to show cause why it should not be withdrawn or cancelled within a period of two months.

Appeal.

118. Any person aggrieved by the refusal of the Registrar to register a trade union or employers' association or by the withdrawal or cancellation of a certificate or registration may within such period as may be prescribed, appeal to the Labour Court concerned and the Court shall after hearing the parties dispose of the appeal as it deems fit.

Bylaws of trade unions.

119. *(1)* Subject to the provisions of this Act, every trade union shall be free to draw up its Constitution, to frame its rules and to elect its representatives without interference from any outside authority.

(2) The rules of every trade union shall provide for the matters specified in Schedule VII.

(3) The minimum rate of subscription for membership of the union shall be 0.5 per cent. of the wages of the members subject to a minimum of rupee one per month.

(4) The President, Secretary and other office bearers as well as the members of the executive or managing committee of every union shall be appointed by election through secret ballot in the prescribed manner and no office bearer or member of the executive or managing committee shall hold office for more than three years, but every such person shall be entitled to re-election.

(5) A person shall be disqualified for being chosen as and for being a member of the executive or any other office-bearer of a registered trade union if:—

(*a*) he has not attained the age of eighteen years;

(*b*) he has been convicted by a court in India of any offence involving moral turpitude and sentenced to imprisonment unless a period of five years has elapsed since his release.

(*6*) The general funds of a registered trade union shall not be spent on any object other than the following, namely:—

(*a*) the payment of salaries, allowances and expenses of the office-bearers of the union;

(*b*) the payment of expenses for the administration of the union including audit of the accounts of the general funds of the union;

(*c*) the prosecution or defence of any legal proceeding to which the union or any members thereof is a party, when such prosecution or defence is undertaken for the purpose of securing or protecting any right of the union as such or any rights arising out of the relations of any member with his employer or with a person whom the member employes;

(*d*) the conduct of union dispute on behalf of the union or any member thereof;

(*e*) the compensation of members for loss arising out of trade disputes;

(*f*) allowances to members or their dependents on accounts of death, old age, sickness, accidents or unemployment of such members;

(*g*) the issue of, or the undertaking of liability under, policies of assurance on lives of members, or under policies insuring members against sickness, accident or unemployment;

(*h*) the provision of education, social or cultural benefits for members (including the payment of the expenses of funeral or connected ceremonies for deceased members) or for the dependents of members;

(*i*) the upkeep of a periodical published mainly for the purpose of discussing questions affecting employers or workmen as such;

(*j*) the payment, in furtherance of any of the objects on which the general funds of the unions may be spent, of contributions to any cause intended to benefit workmen in general and those in the unorganised sector, in particular:

Provided that the expenditure in respect of such contributions in any financial year shall not at any time during that year be in excess of one-fourth of the combined total of the gross income which has upto that time accrued to the general funds of the union during that year and of the balance at the credit of those funds at the commencement of that year; and

(*k*) subject to any condition contained in the notification, any other object notified by the appropriate Government.

(*7*) (*i*) A registered trade union may constitute a separate fund from contributions separately levied for or made to that fund from which payments may be made for the promotion of the civic and political interests of its members in furtherance of any of the objects specified in clause (*ii*).

(*ii*) The objects referred to the clause *(i)* are:

(a) the payment of any expenses incurred either directly or indirectly by a candidate or prospective candidate for election as a member of any legislative body constituted under the Constitution or of any local authority, before, during or after the election in connection with his candidature or election; or

(*b*) the holding of any meeting or the distribution of any literature or documents in support of any such candidate or prospective candidate; or

(*c*) the maintenance of any person who is a member of any legislative body constituted under the Constitution or of any local authority; or

(*d*) the registration of electors or the selection of a candidate for any legislative body constituted under the Constitution or for any local authority; or

(*e*) the holding of political meetings of any kind, or the distribution of political literature or political documents of any kind;

(*iii*) In its application to the State of Jammu and Kashmir reference in clause (*ii*) to any legislative body constituted under the Constitution shall be construed as including references to the legislature of the State;

(*iv*) No member shall be compelled to contribute to the fund under clause (i) and a member who does not contribute to the said fund shall not be excluded from any benefits of the union; or placed in any respect directly or indirectly under any disability or at any disadvantage as compared with other members of the union (except in relation to the management of the said fund) by reason of his not contributing to the said fund, and contributions to the said fund shall not be made a condition for admission to the union.

Bylaws of employers, association.

120. (*i*) Every employers' association shall be free to draw up its Constitution, to frame its rules and to elect its representatives without interference from any outside authority.

(*ii*) The rules of every association shall provide for the matters specified in Schedule VII.

Recognition of trade union.

121. (*1*) There shall be a sole bargaining agent in each establishment to represent the employees of that establishment in collective bargaining, mediation arbitration or adjudication on matters relating to a collective demand.

(*2*) There shall be a bargaining council for each activity or area in collective bargaining, conciliation, arbitration or adjudication on matters relating to a collective demand.

(*3*) Subject to the provisions of this code the Labour Relations Commission shall, after such enquiry as it deems fit, specify the percentage of minimum membership a trade union should have to be eligible for recognition as a bargaining agent or as a member of a bargaining council.

(*4*) Subject to the provisions of this Act, the Commission shall determine the membership of a union by means of check off, secret ballot the general verification or any other procedure, as the case may be, in consultation with the unions concerned and the

decision of the Commission regarding the procedure for determining the strength of a union shall be final.

(*5*) The union having the largest membership in an establishment shall be recognised as the most representative union of that establishment provided it has the minimum number of members as specified and the Commission shall issue a certificate in token prescribed of that recognition; the union possessing such a certificate shall be the sole bargaining agent on behalf of the employees in the establishment.

(*6*) The unions having the minimum membership in an activity or area as specified by the Commission shall be recognised as members of the bargaining council for the activity or area as the case may be and the trade union having the largest membership in the activity or area shall be recognised as the principal bargaining agent for that activity or area.

(*7*) No union which is not registered shall be entitled to recognition as a bargaining agent or as member of a bargaining council.

(*8*) No union with a membership of less than fifteen per cent. of the number of employees shall be eligible for recognition as a bargaining agent unless the registered union is the only union in the establishment, activity or area.

(*9*) No craft union shall be eligible for recognition as a bargaining agent.

(*10*) Recognition of a union or the sole bargaining council shall be in force for a period of three years which may be extended from time to time unless challenged.

(*11*) An employee who is a member of a union at the time of verification of the strength of that union shall not change his membership and join another union within less than one year; he may however, withdraw his membership of the union.

Recognition of employers' associations.

122. (*1*) A registered employers' association with a membership employing not less than fifty per cent. of the number of employees in the activity or area, as the case may be, shall be recognised as the sole bargaining agent on behalf of the employers.

(*2*) A registered association with a membership employing less than fifty per cent. of the number of employees in the activity or area, as the case may be, may be recognised as the sole bargaining agent and if it is the only association with membership employing not less than fifteen per cent. of the number of employees of the activity or area.

(*3*) In cases where there are more than one association each having a membership employing more than fifteen per cent. of the number of employees, a bargaining council shall be constituted and all such associations shall be appointed as members of the council; the association employing the largest number of employees in the activity or area shall be recognised as the principal bargaining agent.

(*4*) The strength of the associations and their representative character shall be determined by the Central or State Labour Relations Commission, as the case may be, by such procedure as may be devised in consultation with the association concerned.

(*5*) Any dispute regarding recognition of an employers' association or its representative character shall be referred to and decided by the appropriate Labour Relations Commission.

(*6*) No association which is not registered shall be entitled to recognition as a bargaining agent or as member of a bargaining council.

(*7*) Recognition of an association as the sole bargaining agent, principal bargaining agent or as a member of a bargaining council shall be in force for a period of three years which may be extended unless challenged.

Functions of recognised trade union or employers' association.

123. (*1*) A trade union or an employers' association which is recognised as the sole bargaining agent shall have the exclusive right:—

(*a*) to enter into collective agreements on wages and other terms of employment and conditions of service;

(*b*) to call for a strike or lock out in accordance with the prescribed procedure;

(*c*) to nominate representatives for bipartite and tripartite councils or committees;

(*d*) to discuss any matter with the employer;

(*e*) to inspect by prior agreement the place of work of any of its members; and

(*f*) to call for and to receive information required for collective bargaining purposes.

(*2*) Where there is a bargaining council these rights shall be exercised by the members of the council collectively and the principal bargaining agent shall be the channel of communication between the council and the employers or the employers' association, as the case may be.

Functions of other trade unions.

124. Other registered trade unions shall have the right to represent the cause of their members on all matters connected with individual disputes.

Trade union disputes.

125. Any dispute between :—

(*a*) one trade union and another;

(*b*) one group of members and another group of members of the union;

(*c*) one or more members of the union and the union;

(*d*) one or more employees who are not members of the union and the union,

shall be determined by the Labour Court concerned on a reference by any party; and no civil court including the High Court shall have jurisdiction over such disputes.

Employers' associations disputes.

126. Any Association Dispute between one employers' association and another or between one or more members of the employers' association and the employers' association or between one or more employers who are not member of the employers' association and the employers' association shall be determined by a Labour Court on a reference by any party and no civil court, including a High Court, shall have jurisdiction over such disputes.

Registered office.

127. (*1*) All communications and notices to a registered trade union employers' association shall be addressed to its registered office.

(*2*) Notice of any change in the address of the registered office shall be given within fourteen days of such change to the Registrar of Trade Unions in writing, and the changed address shall be recorded in the register.

Incorporation of registered trade union or employer's association.

128. Every registered trade union or employers' association shall be a body corporate.

Certain Acts not to apply to registered unions.

129. The following Acts, namely:—

(*a*) The Societies Registration Act, 1860 and other similar Acts by State Legislatures, 21 of 1860.

(*b*) The Co-operative Societies Act, 1912, and 2 of 1912.

(*c*) the Companies Act, 1956 1 of 1956.

shall not apply to any registered trade union and the registration of any trade union under any such act shall be void.

Immunity from criminal liability.

130. No member or office bearer of a registered trade union or an employers' association shall be liable to punishment under sub-section (*2*) of section 120B of the Indian Penal Code in respect of any agreement made between the members for the purpose of furthering any such object of the trade union or employers' association as specified in its rules unless the agreement is an agreement to commit an offence.

Immunity from civil suit.

131. (*1*) No suit or other legal proceeding shall be maintainable in any civil court against any trade union or an employers' association or any office bearer or member thereof, in respect of any act done in contemplation or furtherance of a dispute to which a member of the trade union or employers' association is a party on the ground only that such act

induces some other person to break a contract of employment, or that it is interference with the trade, business or employment of some other person or with the right of some other persons to dispose of his capital or of his labour as he wills.

(2) A registered union or association shall not be liable in any suit or other legal proceeding in any civil court in respect of any tortuous act done in contemplation or furtherance of a dispute by an agent of the union or association if it is proved that such person acted without the knowledge of or contrary to express instructions given by the executive of the union or association.

Protection of employees' representatives.

132.(1) Employees representatives shall enjoy protection against any act prejudicial to them, and they shall not suffer dismissal, demotion, transfer or any other penalty on account of their membership of trade union, their representative status or on account of any of their activities as members, office bearers or as representatives of a trade union, so, however, this protection shall not be available for proven misconduct.

(2) No punishment shall be imposed on any employees representative except after an enquiry in which he has been informed of the charges against him and given a reasonable opportunity to deny the charges and to defend himself and to make representatives against the proposed punishment.

Facilities to be afforded to employees' representatives.

133. The employees' representatives shall be afforded the following facilities to enable them to carry out their function promptly and efficiently without impairing the efficient operation of the undertakings namely:—

(a) time off without loss of pay on social and fringe benefits for attending trade union meetings, training courses, seminars, congresses and conferences, subject to such reasonable limits as may be prescribed;

(b) access to all working places in the undertaking, where such access is necessary to enable them to carry out their representative functions;

(c) access to the management of the undertaking and to management representatives empowered to take decisions as may be necessary for the proper exercise of their functions;

(d) permission to collect trade union dues on the premises of the building through employees' representatives authorised to do so;

(e) permission to post notices on the premises of the undertaking in a place or places agreed on with the management to which the employees have access and to distribute new sheets, pamphlets, publications and other documents of the union among the employees of the undertaking provided that the notices and documents relate to normal trade union activities and their posting and distribution do not prejudice the orderly operation and tidiness of the undertaking and provisions of such other material facilities and information as may be necessary for the exercise of their functions.

Enforceability of agreement.

134. An agreement between the members of a registered trade union or employers' association shall not be void or voidable merely by reason of the fact that any of the objects of the agreement are in restraint of trade notwithstanding anything contained in any other law for the time being in force:

Provided that nothing in this section shall enable any civil court to entertain any legal proceeding instituted for the purpose of enforcing or recovering damages for the breach of any agreement concerning the conditions on which the members of a trade union or employers' association shall or shall not sell their goods, transact business work, employ or be employed.

Right to inspect books of trade union.

135. The account books of a registered trade union and the list of members thereof shall be open to inspection by an office bearer or member of the union at such time as may be provided for in the rules of the union.

Change of name.

136. (1) Any registered trade union or employers' association may with the consent of not less than two-thirds of the total number of its members change its name.

(*2*) Notice in writing of every change of name signed by the secretary and seven other members shall be sent to the Registrar.

(*3*) The Registrar shall, if it is satisfied that the provisions of this code in respect of change of name have been complied with, register the change of name and the change of name shall be effective from the date of such registration.

(*4*) If the proposed name is identical with that by which any other existing trade union or employers' association has been registered or in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive the public or the members of either union or association the Registrar shall refuse to register the change of name.

Amalgamation of trade unions.

137. (*1*) Any two or more registered trade unions or employers' associations may become amalgamated together as one trade union or employers' association with or without dissolution or division of funds of such unions or associations or either or any of them, provided that the votes of at least one-half of the members of each and every such union or association entitled to vote are recorded, and that at least sixty per cent. of the votes recorded are in favour of the proposal.

(*2*) Notice in writing of every amalgamation signed by the Secretary and seven other members of each and every trade union or employers' association which is a party thereto shall be sent to the Registrar, and where the head office of the amalgamated trade union or employers' association is situated in a different State, to the Labour Court of such State.

(*3*) Registrar of the State in which the head office of the amalgamated union or association is situated shall, if he is satisfied that the provisions of this Act in respect of amalgamation have been complied with and that the union or association formed thereby is entitled to registration, register the union or association in the manner provided in section 116 and the amalgamation shall have effect from the date of such registration.

Effects of change of name and amalgamation.

138. (*1*) The change in the name of a registered trade union or employers' association shall not affect any rights and obligations of the union or association or render defective any legal proceeding by or against the union or association and any legal proceeding which might have been continued or commenced by or against it by its former name may be continued or commenced by its new name.

(*2*) An amalgamation of two or more unions or associations shall not prejudice any right of any such union or association or any right of a creditor of any of them.

Dissolution.

139. (*1*) When a registered trade union or employers' association is dissolved, notice of the dissolution signed by seven members and by the secretary of the union or association shall, within fourteen days of the dissolution be sent to the Registrar and shall be registered by him if he is satisfied that the dissolution has been effected in accordance with the rules of the union or association and the dissolution shall have effect from the date of such registration.

(*2*) Where the dissolution of a registered union or association has been registered and the rules of the union or association or association do not provide for the distribution of funds of the union or association on dissolution the assets of the union or association shall stand transferred to the appropriate Social Security Fund.

Returns.

140. (*1*) There shall be sent annually to the Registrar on or before such date as may be prescribed, a general statement, audited in the prescribed manner, of all receipts and expenditure of every registered trade union or employers association during the year ending on the 31st December and of the assets and liabilities of the union or association existing on such 31st day of December and the statement shall be prepared in such form and shall comprise such particulars as may be prescribed.

(*2*) Together with the general statement there shall be sent to the Registrar a statement showing all changes of office bearers made by the union or association during the year to which the general statement refers together also with a copy of the rules of the union or association corrected upto the date of the despatch thereof to the Registrar.

(*3*) A copy of every alteration made in the rules of a registered union or association shall be sent to the Registrar within fifteen days of the making of the alteration.

(*4*) For the purpose of examining the documents referred to in sub-sections (1) to (3), the Registrar or any other officer authorised by him by general or special order, may at any time inspect the certificate of registration, account books, registers and other documents relating to a union or association at its registered office or may require their production at such place as he may specify in this behalf, but no such place shall be at a distance of more than 16 k.m. from the registered office of a union or an association.

Bipartite negotiations.

141. (*1*) The terms and conditions of employment at levels above the minimum standards laid down in this Act shall be determined by mutual agreement between the employers and the employees concerned through collective bargaining.

(*2*) A collective agreement may be concluded for an establishment, activity or area as the case may be and the level at which such collective bargaining should be held and collective agreement entered into in any case of dispute shall be determined by the Labour Relations Commission.

(*3*) Negotiations for an agreement of one or more issues may be initiated by either party, namely the certified bargaining agent, or the principal bargaining agent if there is more than one bargaining agent, the employer or the recognised employers' association by giving notice to the other party provided there is already no collective agreement in force with respect to those issues.

(*4*) A collective agreement may make provision for —

(*a*) rates of remuneration for different classes and grades of employees;

(*b*) adjustment of the rates of pay to variations in the cost of living;

(*c*) hours of work;

(*d*) occupational health and safety;

(*e*) leave, bonus, gratuity, pension and other benefits;

(*f*) overtime work and allowances, incentive schemes, productivity, introduction of new technology, organisation and methods of work, training, skill upgradation, paid educational leave;

(*g*) any other matter relating to employment, non-employment; terms of employment or conditions of labour of any person or group of persons.

(*5*) Every collective agreement shall be reduced to writing and signed by the authorised representative of the parties and shall contain the following information; namely—

(*i*) the names of employers or employers' associations and the trade unions who negotiated the agreement;

(*ii*) the period for which the agreement is concluded;

(*iii*) the categories or classes of employees covered by the agreement;

(*iv*) the agreed conditions that are to govern individual employment relationships during its currency;

(*v*) method of settlement of disputes arising from the agreement between the contracting parties in connection with the application of the agreement;

(*vi*) procedure for renewal or termination or alteration of the agreement.

(*6*) A collective agreement may contain provisions which are more favourable to the employees than those contained in any law but shall not be inconsistant with the provisions of any law.

(*7*) Every collective agreement shall be filed before the Labour Relations Commission, Labour Commissioner of the appropriate Government and the Statistical Authority concerned.

(*8*) A collective agreement shall be binding on—

(*i*) all parties to the agreement;

(*ii*) the heirs, successors and assignees of the employer concerned;

(*iii*) all persons who were employed in the establishment, enterprise or activity

as the case may be, on the date of the agreement and all persons who subsequently become employed therein and their employers.

(*9*) A collective agreement shall come into operation on such date as is agreed upon by the parties and if no date is agreed upon the date on which the memorandum of agreement is signed by the parties concerned.

(*10*) A collective agreement shall be binding for such period as is agreed upon by the parties and if no such period is stipulated for a period of three years from the date on which the memo of agreement is signed by the parties and shall continue to be binding on the parties after the expiry of the period aforesaid until the expiry of two months from the date on which a notice in writing of an intention to terminate the settlement is given by one of the parties to the other party or parties to the settlement, or until a new agreement is reached, whichever is earlier.

(*11*) All parties to the negotiation of a collective bargaining agreement shall disclose all information relevant to the negotiation including information contained in records, papers, books or other documents and make earnest effort to conclude the negotiations in absolute good faith.

Settlement of collective disputes.

142. (*a*) Where the parties fail to reach agreement on any issue through bipartite negotiation and they agree to refer the matters in dispute for arbitration the matters shall be referred for arbitration; or if there is no agreement to refer the dispute for abitration either party may refer the matters to the Labour Relations Commission concerned and the Labour Relations Commission shall determine the dispute through either mediation or adjudication:

Provided that the Labour Relations Commission concerned may take cognizance of a labour dispute that has arisen and pass such orders as it deem fit.

(*b*) Where the appropriate Government is of opinion that any labour dispute exists or is apprehended and that it is necessary or expedient so to do for securing the public safety or convenience or the maintenance of public order or of supplies and services essential to the life of the community or for maintaining industrial peace it may by a general or special order make provision for prohibiting, subject to the provisions of the order, strikes, or lockouts generally or a strike or a lockout in connection with any particular labour dispute and refer the dispute to the Labour Relations Commission for settlement.

Arbitration.

143. (*1*) Where any dispute exists or is apprehended and the employer and the employees agree to refer the dispute to arbitration they may, by a written agreement, refer the dispute to arbitration and the reference shall be to such person or persons as an arbitrator or arbitrators as may be specified in the arbitration agreement.

(*2*) Where an arbitration agreement provides for reference of the dispute to an even number of arbitrators, the agreement shall provide for the appointment of another person as umpire who shall enter upon the reference, if the arbitrators are equally divided in their opinion, the award of the umpire shall prevail and shall be deemed to be the arbitration award for the purpose of this Act.

(*3*) The Labour Relations Commission shall draw up a panel of arbitrators from time to time and maintain the same.

(*4*) The parties to a dispute may select the arbitrators from the panel.

(*5*) Where the parties agree to refer a dispute for arbitration but do not agree on the arbitrator the Labour Relations Commission shall nominate an arbitrator on the request of the parties.

(*6*) An arbitration agreement referred to in sub-section (*1*) shall be in such form and shall be signed by the parties thereto in such manner as may be prescribed.

(*7*) A copy of the arbitration agreement shall be forwarded to the appropriate Labour Relations Commission.

(*8*) The arbitrator or arbitrators shall investigate the dispute and submit to the appropriate government the arbitration award signed by the arbitrator or arbitrators, as the case may be.

(9) Nothing in the Arbitration Act, 10 of 1940 shall apply to arbitration under this section.

(10) The arbitrator or arbitrators shall follow such procedure as he or they may deem fit.

(11) An arbitrator or arbitrators may for the purpose of the inquiry into any dispute, after giving reasonable notice, enter the premises occupied by any establishment to which the dispute relates.

(12) The award of an arbitrator or arbitrators shall be in writing and signed by arbitrator or arbitrators.

(13) An arbitration award shall be final and shall not be called in question by any court in any manner whatsoever.

(14) An arbitration award shall come into operation with effect from such date as may be specified therein and when no date is specified, it shall come into operation from the date on which it is signed.

(15) An arbitration award shall be binding on—

(a) all parties to the dispute;

(b) all other parties summoned to appear in the proceedings as parties to the dispute unless the opinion is recorded by the arbitrator or arbitrators that they were summoned without proper cause.

(c) where a party referred to in clause *(a)* or *(b)* is an employer his heirs, successors or assignees in respect of the establishment to which the dispute relates;

(d) where the party referred to in clause *(a)* or *(b)* is composed of employees all for persons who were employed in the establishment or part of the establishment, as the case may be, to which the dispute relates on the date of dispute and all persons who subsequently became employed therein;

(16) An arbitration award shall be in operation for a period of three years and shall continue to be in force and to be binding on the parties after the expiry of this period until a period of two months has elapsed from the date on which notice is given by any party bound by the award to the other party or parties intimating the intention to terminate the award or until a fresh award is given whichever is earlier.

(17) No notice given under sub-section (16) shall have effect unless it is given by a party who is recognised as the sole bargaining agent or as the principal bargaining agent where there are more than one bargaining agent.

Labour Relations Commissions.

144. *(1)* **The Central Government shall, by notification, establish a Labour Relations Commission to be known as the Central Labour Relations Commission.**

(2) The State Government shall, by notification establish a Labour Relations Commission to be known as the State Labour Relations Commission.

(3) **There shall be established by the Central Government, by notification a National Labour Relations Commission for adjudication on any dispute which—**

(a) involves a question of national importance; or

(b) is of such nature that establishments or undertakings situated in more than one State are likely to be interested in or affected by such disputes.

(4) (i) **The Central Labour Relations Commission and each of the State Labour Relations Commission shall consist of a president and such number of other members representing labour and management as necessary:**

Provided that the number of members representing labour shall be equal to the number of members representing management.

(ii) **The National Labour Relations Commission shall consist of a president and four other members of whom two shall be public administrators or economists, one shall be a representative of labour organisations and one shall be a representative of organisations of employers.**

(iii) Subject to the other provisions of this Act, the jurisdiction, powers and authority of the Central labour Relations Commission and the State Labour Commissions may be exercised by benches thereof.

(iv) (a) A bench shall consist of not less than three members of whom one shall be a judicial member.

(b) The president may discharge the functions of a judicial member of any bench.

(c) The president may for the purpose of securing that any case or cases which, having regard to the nature of the questions involved requires or require in his opinion or under the rules made by the Central Government or, as the case may be, by the State Government, in this behalf, to be decided by a bench composed of more than three members, issue such general or special orders as he may deem fit:

Provided that every bench constituted shall include at least one judicial member, one non-judicial member representing employers.

(d) The benches of the National Labour Relations Commission and the Central Labour Relations Commission shall sit at such place as the Central Government may by notification specify.

(e) The benches of the State Labour Relations Commission shall sit at such places as the State Government may by notification specify.

(5) (i) The president of the National Labour Relations Commission shall be a sitting Judge of the Supreme Court of India.

(ii) The President of the Central Labour Relations Commission or State Labour Relations Commission shall be a sitting or retired judge of a High Court;

(iii) The Members of the National, Central and State Labour Relations Commission shall be persons who have distinguished themselves in the field of economics, public administration, labour movement and management;

(6) *(i)* There shall be a National Judicial Commission.

(ii) The National Judicial Commission shall comprise of the Chief Justice of India and four other members nominated by the Chief Justice of India of whom two shall be Judges of the Supreme Court and two shall be Chief Justices of High Courts.

(iii) The president and members of the National Labour Relations Commission and the Central Labour Relations Commission shall be appointed by the president of India on the recommendations of the National Judicial Commission.

(iv) The president and members of the State Labour Relations Commission shall be appointed by the Governor of the state on the recommendation of the National Judicial Commission:

Provided that the Government has information in its possession that any person recommended by the National Judicial Commission is unsuitable for such appointment it shall make the information available to the Commission whereupon the Commission may reconsider its recommendation and make a fresh nomination for the appointment.

(v) The recommendations of the National Judicial Commission shall be binding on the President or the Governor, as the case may be.

(7) *(i)* In the event of the occurrence of any vacancy in the office of the president of a Labour Relations Commission, the senior most member of the Labour Relations Commission shall act as the president until the date on which a new president is appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office.

(ii) When the president of a Labour Relations Commission is unable to discharge his functions owing to absence, illness or any other cause, the senior most member shall discharge the function of the president until the date on which the president resumes office.

(*8*) The president and members of a Labour Relations Commission shall hold office until they attain the age of seventy years.

(*9*) The president or any other member of the Labour Relations Commission may, by notice in writing under his hand addressed to the Central Government or the State Government, as the case may be, resign his office :

Provided that the president or other member of the commission shall, unless he is permitted to relinquish his office sooner by the Central Government or the State Government, as the case may be, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office whichever is the earliest.

(*10*) (*i*) The president, or any other member of the Central Labour Commission and a member of the National Labour Relations Commission may be removed from office by an order made by the president of India on the ground of proved misbehaviour or incapacity on the recommendation of the National Judicial Commission after an enquiry in which such president or member has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(*ii*) The president or any other member of a State Labour Relations Commission may be removed from office by an order made by the Governor of the State on the ground of proved misbehaviour or incapacity by the National Judicial Commission, after an inquiry in which such president or member has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(*iii*) The Central Government shall by rules, lay down the procedure for the investigation of misbehaviour or incapacity of the president or member referred to in sub-sections (*i*) and (*ii*).

(*11*) (*i*) The salaries and allowances payable to and other terms and conditions of service (including pension, gratuity and other retirement benefits) of the President and other members of the National Labour Relations Commission and the Central Labour Relations Commission shall be such as may be prescribed by the Central Government and those of the President and members of the State Labour Relations Commission shall be such as may be prescribed by the State Government.

(*ii*) Neither the salary and allowances nor the other terms and conditions of service of the President or any other member shall be varied to his disadvantage after his appointment.

(*12*) (*i*) The National Labour Relations Commission shall have the powers exercisable by the Supreme Court under clause *(3)* of article 32 of the Constitution or in pursuance thereof.

(*ii*) No High Court shall have any power of superintendence over the Labour Relations Commissions.

(*iii*) No Court shall exercise any jurisdiction, power or authority in respect of any matter subject to the jurisdiction, power or authority of or in its relation to the Labour Relations Commission.

(*iv*) The Central and State Labour Relations Commission will be deemed to be set-up under article 323B of the Constitution.

(*13*)(*i*) The president of a Labour Relations Commission shall exercise such financial and administrative powers over the Benches as may be vested in him under the rules made by the Central Government or, as the case may be, the State Government.

(*ii*) The president of a Labour Relations Commission shall have authority to delegate such of his financial and administrative powers as he may think fit, to any other member or officer of the Commission subject to the condition that such member or officer shall while exercising such delegated powers, continue to act under the direction control and supervision of the president.

(*14*) (*i*) **The Central Government or, as the case may be, the State Government shall determine the nature and categories of the officers and other employees required to assist the Central Labour Relations Commission or the State Labour Relations Commission in the discharge of its functions and provide the Commission with such officers and other employees as it may think fit.**

(*ii*) **The salaries, allowances and conditions of service of the officers and other employees of the Central Labour Relations Commission or the State Labour Relations Commission shall be such as may be specified by rules made by the Central Government or as the case may be, the State Government.**

(*iii*) The officers and other employees of the Labour Relations Commission shall discharge their functions under the general superintendence of the President.

(*15*) The Central Labour Relations Commission and the State Labour Relations Commission shall have the following functions, namely:—

(*a*) certification of bargaining agents and bargaining councils;

(*b*) determination of the level at which collective bargaining shall be held;

(*c*) mediation of disputes which are not settled by collective bargaining and there is no agreement to refer the same to arbitration.

(*d*) adjudication of disputes which are not settled by collective bargaining, arbitration or mediation: Provided that in cases where the parties agree to arbitration of a dispute but are not able to agree upon an arbitrator the appropriate Labour Relations Commission may, on a motion by either party, get the dispute arbitrated by any member of the Commission or by an arbitrator from out of a panel of arbitrators maintained by the Commission for the purpose.

Conciliation.

145. (*1*) (*i*) **The appropriate Government shall appoint such number of persons as necessary to be conciliation officers charged with the duty of conciliating in and promoting of settlement of disputes between employers and their employees on the recommendation of the appropriate commission.**

(*ii*) A conciliation officer may be appointed for a specified area or specified activities in a specified area or for one or more specified activities and either permanently or for a limited period.

(*2*) (*i*) The general function of a conciliator shall be to assist employers and their representatives to achieve and maintain effective labour relations.

(*ii*) In particular, a conciliator shall have the following functions, namely:—

(*a*) to chair conciliation proceedings;

(*b*) to deal with matters referred to him by the Labour Relations Commission or the Labour Court;

(*c*) to offer his services to the parties to a dispute, to assist them to solve the dispute and in this regard to make such enquiries as may be necessary;

(*d*) to exercise such other functions as are conferred on a conciliator by this Act or any other law.

(*3*) Where any labour dispute exists or is apprehended the conciliator may hold conciliation proceedings in such manner as may be prescribed by the commission.

(*4*) The conciliation officer shall, for the purpose of bringing about a settlement of the dispute without delay, investigate the dispute and all matters affecting the merits and the right settlement thereof and may do all other things as he thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.

(*5*) A conciliation proceeding shall be deemed to have commenced on the date on which a notice of strike or lockout is received by the appropriate commission or, on the date

the conciliation officer issues notices asking the parties concerned to attend a joint conference before him.

(*6*) A conciliation proceeding shall be deemed to have concluded —

(*a*) where a settlement is arrived at, when a memorandum of settlement is signed by the parties to the dispute;

(*b*) where no settlement is arrived at when the report of the conciliation officer is received by the appropriate commission;

(*c*) when a reference is made to a Labour Court or the Labour Relations Commission during the pendency of conciliatory proceedings.

45 of 1860. (*7*) All conciliation officers, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

(*8*) Subject to any rules that may be made in this behalf the conciliation officer shall follow such procedure as the appropriate commission may by regulation lay down.

(*9*) A conciliation officer may for the purpose of enquiry into any existing or apprehended dispute, after giving reasonable notice, enter the premises, occupied by any establishment to which the dispute relates.

(*10*) A conciliation officer may enforce the attendance of any person for the purpose of examination of such person or call for and inspect any document which he has ground for considering to be relevant to implementation of any award or carrying out any other duty imposed on him under this Act, and for the aforesaid purposes, the conciliation
5 of 1908. officer shall have the same powers as are vested in a civil court under the code of civil procedure, in respect of enforcing the attendance of any person and examining him or of compelling the production of documents.

(*11*) If a settlement of the dispute on any of the matters in dispute is arrived at, in the course of the conciliation proceeding the conciliation officer shall send a report thereof to the appropriate commission together with a memorandum of settlement signed by the parties to the dispute.

(*12*) If no such settlement is arrived at, the conciliation officer shall, as soon as practicable after the close of the investigation, send to appropriate commission a full report setting forth the steps taken by him for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances, and the reasons on account of which in his opinion, a settlement could not be arrived at.

(*13*) On receipt of such a report the appropriate commission shall refer the dispute to a Labour Court or to a Judicial Bench of the Labour Relations Commission itself.

Mediation. **146.** (*1*) **The appropriate Government or the Central or State Labour Relations Commission may appoint a mediator or mediators for settlement of disputes of importance between employers and their employees.**

(*2*) A mediator or mediators may be appointed for a specified area or specified activity or activities.

(*3*) The general function of a mediator or mediators shall be to resolve the differences between the disputants and to bring about a settlement.

(*4*) A mediator or mediators may evolve his or their own procedure but it shall be the endeavour to Complete the proceedings as expeditiously as possible.

45 of 1860. (*5*) A mediator or mediators shall be deemed to be a public servant or servants within the meaning of section 21 of the Indian Penal Code.

(*6*) If a dispute is settled as a result of mediation, the mediator or mediators shall send a report thereof to the appropriate Government and commission together with a copy of the memorandum of settlement signed by the parties to the dispute.

(7) If no such settlement is arrived at, the mediator or mediators shall, as soon as practicable, send to the appropriate Government and commission a full report setting forth a full statement of the facts and circumstances of the dispute and the reasons for non-settlement of the dispute.

(8) On receipt of such a report, the appropriate Commission shall refer the dispute to a Labour Court or to a Judicial Branch of the Labour Relations Commission itself.

Adjudication.

147. *(1)* In the event of failure of conciliation or mediation, a dispute may be adjudicated upon either by a Labour Court or by the Labour Relation Commission itself.

(2) *(a)* The matters listed in Part A of Schedule VIII shall be within the jurisdiction of a Labour Court;

(b) The matter listed in Part B of Schedule VIII shall be within the jurisdiction of Labour Relations Commission.

Adjudication by Labour Court.

148. *(1)* **The appropriate Government may, by notification, constitute one or more Labour Courts for adjudication of disputes relating to any matter specified in Part A of Schedule VIII and for performing such other functions as may be assigned to them under this code.**

(2) A Labour Court shall consist of one person only to be appointed by the appropriate Government;

(3) A person shall not be qualified for appointment as the presiding officer of a Labour Court, unless—

(a) he is, or has been a District Judge or an Additional District Judge, or

(b) he has, for not less than five years, held any judicial office in India, or

(c) he has, for not less than seven years, been an advocate, or

(d) he has, for not less than three years, been the presiding officer a Tribunal constituted under any Central or State Act.

(4) No appointment of a person possessing the qualification specified in sub-section *(2)* as the presiding officer of a Labour Court shall be made except after consultation with the president of the Central Labour Relations Commission which has jurisdiction over the Labour Court if the appropriate Government for making such appointment is the Central Government and the president of the State Labour Relations Commission which has jurisdiction over the Labour Court if the appropriate Government for making such appointment is the State Government.

(5) A Labour Court constituted under this section shall function under the overall supervision of the Labour Relations Commission concerned.

(6) If for any reason, a vacancy (other than temporary absence) occurs in the office of the presiding officer of a Labour Court then the appropriate Government shall appoint another person in accordance with the provisions of this code to fill the vacancy.

(7) No order of the appropriate Government appointing any person as the presiding officer of a Labour Court shall be called in question in any manner.

Adjudication by Labour Relations Commissions.

149. *(1)* The Central Labour Relations Commission and the State Labour Relations Commission shall adjudicate any dispute relating to any matter except a matter which falls within the jurisdiction of a Labour Court and which is referred to it.

(2) The Labour Relations Commission shall have the jurisdiction and exercise all the powers and authority exercisable in relation to an appeal against any order passed by the Labour Court.

(3) The National Labour Relations Commission shall have the jurisdiction and exercise all the powers and authority relating to an appeal against an order by the Central Labour Relations Commission or a State Labour Relations Commission.

(*4*) (*a*) Where the appeal is from an order of a Labour Court in relation to the legality or otherwise of a strike or lockout the same shall be preferred within fifteen days from the date of the order appealed against and the Labour Relations Commission shall decide such appeal within thirty days of the filing of such appeal.

(*b*) In other cases the period of limitation for an appeal under this section shall be sixty days:

Provided that the Labour Relations Commission may, if it is satisfied that the appellant was prevented by sufficient cause from preferring an appeal within the said period of sixty days, permit the appellant to prefer the appeal within a further period of sixty days.

(*c*) No proceedings before a Labour Relations Commission shall lapse merely on the ground that any period specified in relation to the determination of such appeal by the Commission had expired.

(*5*) The Labour Relations Commission shall have the same jurisdiction and exercise the same powers and authority in respect of contempt of itself as a High Court has and may exercise and for this purpose the provision of the Contempt of Courts Act, shall have effect subject to the modifications that—

70 of 1971.

(*a*) the reference therein to a High Court shall be construed as including a reference to the Labour Relations Commissions;

(*b*) the reference to the Advocate General in section 15 of the said Act shall be construed, (*i*) in relation to the Central Labour Relation Commission as a reference to the Attorney-General and the Solicitor-General or the Additional Solicitor-General and (*ii*) in relation to the State Labour Relations Commission as a reference to the Advocate-General of the State.

(*6*) (*i*) Where benches of a Labour Relations Commission are constituted the appropriate Government may, from time to time by notification, make provisions as to the distribution of the business of the commission, amongst the Benches and specify the matters which may be dealt with by each Bench.

(*ii*) If any question arises as to whether any matter falls within the purview of business allocated to a Bench of the Labour Relations Commission the decision of the president of such commission shall be final.

(*7*) The order of a Labour Relations Commission shall be executed in the same manner as an order or a decree of a court is executed.

(*8*) On the application of any of the parties and after notice to the parties, and after hearing such of them as may be desired to be heard, or on his own motion without such notice the president of the Labour Relations Commission may transfer any case pending before one Bench for disposal to another Bench.

(*9*) All the decisions of the Labour Relations Commissions shall be taken on the basis of the opinion of the majority but shall be without prejudice to the right of the members to canvass their dissenting opinion if any in other cases.

Procedures and powers of the Arbitrators, Labour Courts and Labour Relations Commissions.

150. (*1*) Subject to any rules that may be made in this behalf, the Arbitrators, Labour Courts and the Labour Relation Commission shall follow such procedure as they deem fit.

(*2*) Every Labour Court and Labour Relations Commission shall have the same powers as are vested in a civil court under the Act, of Civil Procedure, when trying a suit in respect of the following matters, namely:—

5 of 1908.

(*a*) enforcing the attendance of any person and examining him on oath;

(*b*) compelling the production of documents and material objects;

(*c*) issuing summons for the examination of witnesses; and

(*d*) in respect of such other matters as may be prescribed.

(*3*) Every enquiry or investigation by a Labour Court or the Labour Relations Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code.

(*4*) A Labour Court or the Labour Relations Commission may, if it so thinks fit, appoint one or more persons having special knowledge of the matter under consideration as assessor or assessors to advise it in the proceedings before it.

(*5*) The presiding officer of the Labour Court and the members of the Labour Relations Commission shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

(*6*) Subject to any rules made under this Code, the costs of, and incidental to, any proceeding before a Labour Court or Labour Relations Commission shall be in the discretion of that Labour Court and Labour Relations Commission as the case may be, and it shall have full power to determine by and to whom and what extent and subject to what conditions, if any, such costs are to be paid, and to give all necessary directions for the purposes aforesaid and such costs may, on application made to the appropriate Government by the persons entitled, be recovered by the Government in the same manner as an arrear of land revenue.

(*7*) Every Labour Court and Labour Relations Commission shall be deemed to be civil court for the purposes of sections 345, 346 and 348 of the Code of Criminal Procedure, 1973. 2 of 1974.

(*8*) The award of a Labour Court or a Labour Relations Commission shall be in writing and be signed by the presiding officer concerned.

(*9*) An award of a Labour Court or the Labour Relations Commission shall be final and binding and shall not be called in question before any court in any manner unless an appeal is filed in accordance with the provisions of this Act, on—

(*i*) all parties to the dispute;

(*ii*) where a party referred to in clause (*i*) is a single employer, his heirs, successors or assignees in respect of the establishment to which the dispute relates; where a party referred to in clause (*i*) is the bargaining agent or bargaining council representing the employers, all employers in the activity or area;

(*iii*) where a party referred to in clause (*i*) is composed of employees all persons who were employed in the establishment, activity or area, as the case may be, to which the dispute relates on the date of dispute and all persons who subsequently become employed in that establishment, activity or area.

Condition of service to remain unchanged under certain circumstances during pendency of proceedings.

151. (*1*) During the pendency of any conciliation proceeding or a proceeding before a mediator, arbitrator, Labour Court or a Labour Relations Commission in respect of labour dispute, no employer shall—

(*a*) in regard to any matter connected with the dispute, alter, to the prejudice of the employees concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceeding; or

(*b*) for any misconduct connected with the dispute, discharge or punish, whether by dismissal or otherwise, any employee concerned in such dispute, save with the express permission in writing of the authority before which the proceeding is pending.

(*2*) During the pendency of any such proceeding in respect of a labour dispute, the employer may, in accordance with the standing orders applicable to an employee concerned in such dispute or where there are no such standing orders, in accordance with the terms of the contract, whether express or implied, between him and the employee—

(*a*) alter, in regard to any matter not connected with the dispute, the conditions of service applicable to that employee immediately before the commencement of such proceeding; or for

(*b*) any misconduct not connected with the dispute, discharge or punish, whether by dismissal or otherwise, that employee:

Provided that no such employee shall be discharged or dismissed, unless he has been paid wages for one month and an application has been made by the employer to the authority before which the proceeding is pending for approval of the action taken by the employer.

(*3*) Notwithstanding anything contained in sub-section (2), no employer shall, during the pendency of any such proceeding in respect of a labour dispute, take any action against any protected employee concerned in such dispute—

(*a*) by altering, to the prejudice of such protected employee, the conditions of service applicable to him immediately before the commencement of such proceedings; or

(*b*) by discharging or punishing, whether by dismissal or otherwise, such protected employee, save with the express permission in writing of the authority before which the proceeding is pending.

Explanation

For the purposes of this sub-section, a "protected employee", in relation to an establishment, means an employee who, being an officer of a registered trade union connected with the establishment, is recognised as such in accordance with the rules made in this behalf.

(*4*) In every establishment, the number of employees to be recognised as protected employees for the purposes of sub-section (3) shall be one per cent. of the total number of employees employed therein subject to a minimum number of five protected employees and a maximum number of one hundred protected employees and for the aforesaid purpose, the appropriate Government may make rules providing for the distribution of such protected employees among various trade unions, if any, connected with the establishment and the manner in which the employees may be chosen and recognised as protected employees.

(*5*) Where an employer makes an application to a conciliation officer, mediator, arbitrator, Labour Court or a Labour Relations Commission under the proviso to sub-section (2) for approval of the action taken by him, the authorities shall without delay, hear such application and pass, as expeditiously as possible, such order in relation thereto as it deems fit.

Strikes and Lock-outs.

152. (*1*) (*i*) Anybody of employees may go on strike if there is failure of collective bargaining and the employer has refused arbitration.

(*ii*) No employee shall go on strike—

(*a*) unless a strike ballot is held in the prescribed manner and not less than fifty one per cent. of the members of the bargaining agent or the bargaining council, as the case may be, support the strike;

(*b*) unless a notice of strike is served in the prescribed manner on the matter in dispute;

(*c*) during the pendency of conciliation proceedings and seven days after the conclusion of such proceedings;

(*d*) during the pendency of mediation, arbitration proceedings on the matter in dispute in Labour Court, Labour Relations Commission or the Supreme Court and two months after the conclusion of such proceedings;

(*e*) during the pendency of arbitration proceedings before an arbitrator or arbitrators on the matter in dispute and two months after conclusion of such proceedings;

(*f*) during any period in which a settlement or award is in operation in respect of the matters covered by the settlement or award;

(*g*) within fourteen days of giving notice;

(*h*) before the expiry of the date of strike specified in the notice.

(*2*) The notice of strike shall be served only by the certified bargaining agent or the certified bargaining council.

(*3*) An employer may declare a lock-out if there is a failure of collective bargaining on the matters in dispute and the employees' refusing arbitration thereon provided decision to that effect is taken at the highest level of the management.

(*4*) No employer shall lock-out any of his employees :

(*i*) without giving notice in the manner prescribed;

(*ii*) before the expiry of the date of lock-out specified in the notice;

(*iii*) within fourteen days of giving such notice;

(*iv*) during the pendency of mediation, conciliation, arbitration or adjudication of proceedings before an Officer, Arbitrators, Labour Court or Labour Relations Commission or the Supreme Court, and two months after conclusion of such proceedings;

(*5*) An appropriate Government may by a general or special order prohibit a strike or lock-out and refer the dispute for adjudication.

(*6*) A strike or lockout shall be illegal if it is declared in contravention of this section.

Settlement of Individual disputes and grievances.

153. (*1*) Where a dispute connected with an individual employee arises in an establishment, the employee or any registered trade union of which the employee is a member may refer the dispute to the Grievance Settlement Machinery set-up by the employer with the concurrence of the recognised union in accordance with the rules made under this Act for a decision.

(*2*) Where the Grievance Settlement Machinery is not able to settle the dispute the parties to the dispute may refer the dispute for arbitration to a mutually agreed arbitrator.

(*3*) The provisions of section 143 shall so far as may be, apply to the arbitration of any individual dispute referred for arbitration under sub-section (*2*).

(*4*) Where the Grievance Settlement Machinery is not able to settle the dispute and either party or both the parties to the dispute is or are not agreeable to refer the dispute to a mutually agreed arbitrator, the aggrieved party may apply, in the prescribed manner, to the Labour Court for adjudication of the dispute.

(*5*) Where an employer discharges, dismisses or otherwise terminates the services of an employee, any dispute or difference between the employee and his employer connected with or arising in respect of such discharge, dismissal, or termination may be referred to a Labour Court or the Labour Relations Commission as the case may be, by the aggrieved employee or the trade union to which he belongs for adjudication of the dispute without referring the dispute to the Grievance Settlement Machinery referred to in sub-section (*1*) or for arbitration under sub-section (*2*).

(*6*) No application shall be made under sub-section (4) to the Labour Court or the Labour Relations Commission after the expiry of one year from the final decision of the Grievance Settlement Machinery:

Provided that the Labour Court or the Labour Relations Commission may entertain an application under sub-section (*4*) or sub-section (*5*) after the expiry of the aforesaid period if—

(*a*) the Labour Court or the Labour Relations Commission is satisfied that the delay in making the application is for reasons beyond the control of the party making the application;

(*b*) the parties to the dispute making the application jointly and agree that the application may be entertained notwithstanding the expiry of the aforesaid period of one year.

(*7*) Individual Disputes referred to the Labour Court or the Labour Relations Commission under sub-section (4) or sub-section (5) shall be dealt with in the same manner as other labour disputes.

(*8*) Where a dispute relating to the discharge or dismissal of an employee has been referred to a Labour Court or the Labour Relations Commission for adjudication proceedings the Labour Court or the Labour Relations Commission as the case may be, is satisfied that the order of discharge or dismissal was not justified, it may by its award set aside the order of discharge or dismissal and direct the reinstatement of the employee on such terms and conditions, if any, as it thinks fit, or give such other relief to the employee including the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require:

Provided that in any proceedings under this section the Labour Court or the Labour Relations Commission as the case may be, shall rely only on the material on record and shall not take any fresh evidence in relation to the matter.

(*9*) Where in any case a Labour Court or the Labour Relations Commission by its award direct reinstatement of any employee and the employer prefers proceedings against such award in the Labour Relations Commission, National Labour Relations Commission or the Supreme Court, the employer shall be liable to pay such employee during the pendency of proceedings full wages last drawn by him, including any maintenance allowance admissible to him, under any rules, if the employee had not been employed in any other establishment during such period and an affidavit by such employee had been filed to that effect in such commission or court as the case may be:

Provided that where it is proved to the satisfaction of the Labour Relations Commission, National Labour Relations Commission or the Supreme Court that such employee had been employed and had been receiving adequate remuneration during such period or part thereof, the Labour relations Commission, National Labour Relations Commission or the Supreme Court shall order that no wages shall be payable under this section for such period or periods, as the case may be.

Participation of employees in management.

154. (*1*) The appropriate Government shall frame one or more schemes for securing the participation of workers in the management of enterprises in the public or the private sector and specify the industries or establishments or classes of establishments to which the scheme or schemes shall apply.

(2) A scheme may provide for—

(*i*) the levels of management at which employees shall be associated as participants;

(*ii*) composition of the participative bodies in which the employee will be included;

(*iii*) manner of representation of employees including the supervisory and managerial personnel in these bodies;

(*iv*) manner of representation of the management in the participative bodies;

(*v*) functions of the participative bodies; and

(*vi*) powers of these bodies.

(*3*) The representative organisations of employers and employees in the respective spheres of activity shall be consulted before framing the schemes.

(*4*) The representatives of employees elected or nominated to the participative bodies shall be—

(*a*) provided with all the information they would require for effective participation in the process of decision making in these bodies;

(*b*) given adequate training in production, marketing, financial and personnel management practice to enable them to make fruitful contribution in the decision-making process.

(5) The Central Government shall frame a model scheme or model schemes of participation of employees in management and circulate the same among the State Governments for adoption.

Management councils.

155. Without prejudice to the generality of the provision contained in section 154—

(*1*) In every establishment employing less than one thousand employees, a joint labour management council may be constituted voluntarily by the employer consisting of not less than five representatives of the employer and an equal number of representatives of the employees provided that in any establishment employing less than one hundred employees the labour management council may consist of less than ten persons but the representatives of the employer and the employees shall be equal in number.

(*2*) (*a*) In every establishment employing one thousand or more employees there shall be constituted one or more councils at the shop floor level and a council at the establishment level in accordance with the provisions of the scheme;

(*b*) Each council shall consist of an equal number of persons to represent the employer and the employees;

(*c*) The appropriate Labour Relations Commission shall in consultation with the employer and after taking into account the following matters, namely—

(*i*) total number of workmen in the shop floor and the establishment;

(*ii*) total number of representatives of the employer in the shop floor or the establishment;

(*iii*) the number of level of authorites is the shop floor or the establishment;

(*iv*) the number of shop floors in the establishment; and

(*v*) such other factors as may be specified in the scheme;

Determine the number of persons who shall represent the employer and the employees in the Council or Councils;

(*d*) The persons to represent the employer shall be nominated by the employer in such manner as may be specified in the scheme.

(*e*) The persons to represent the employees shall be nominated by the recognised union, in case there is no recognised union and the representatives of the employees shall be elected by and from amongst the employees of the establishments by secret ballot as may be prescribed in the scheme:

Provided that a person representing the employees shall cease to be a member of the council, when he ceases to be an employee in that establishment and the vacancy so carried shall be filled in such manner as may be specified in the scheme.

(*f*) The Chairperson of each shop floor council and Establishment council shall be chosen by and from amongst the members thereof;

(*g*) The terms of office of the members of each council shall be three years from the date of the constitution of the council;

(*h*) The procedure to be followed in the discharge of their functions by and the manner of filling vacancies amongst the chairpersons and other members of the councils shall be such as may be specified in the scheme;

(*i*) The councils shall meet as and when necessary but not less than four meeting of each council shall be held each year;

(*j*) Every council shall conduct its business in such manner as may be specified in the scheme:

Provided that in case where a matter under consideration is beyond the jurisdiction of—

(*i*) a shop floor council, the said matter shall be referred to the establishment council;

(*ii*) an establishment council in relation to a body corporate, the said matter shall be referred to the Board of Management:

Provided that in a case where the representatives of the employer and the representatives of the employees fail to agree on any matter such matter shall be referred to the Board of Management;

(*k*) A shop floor council shall exercise such powers and perform such functions as it may deem necessary in relation to matters specified in part A of Schedule IX;

(*l*) An establishment council shall exercise such powers and perform such functions as it may deem necessary in relation to matters specified in part B of Schedule IX:

Provided that where no shop floor council is constituted, the establishment council shall exercise such powers and perform such funtions as it may deem necessary in relation to matters specified in part A of Schedule IX also.

(*3*) (*a*) Notwithstanding anything contained in any other law for the time being in force, the Board of Management of everybody corporate owning an industrial or other establishment shall include persons to represent the employees of that establishment and the number of persons representing the employees to be included in the Board of Management shall be at least one-third of the total number of members as the Board of Management subject to a minimum of two;

(*b*) The persons to represent the employees shall be nominated by the recoginsed trade unions or where there is no recognised union they shall be elected by and from amongst the employees of the establishment by secret ballot in accordance with the scheme;

(*c*) The term of office of the representatives of the employees shall be three years from the Constitution of the Board of the Management:

Provided that a person representing the employees shall cease to be a representative on the Board where he ceases to be an employees in that establishment and the vacancy so carried shall be filled in such manner as may be specified in the scheme.

(*d*) Every representative of the employees shall exercise all the powers and discharge all the functions of a member of the Board of Management and shall be entitled to vote;

(*e*) The Board of Management shall review the functioning of each shop floor council and establishment council periodically and take such action as is necessary to make it more effective.

(*4*) (*a*) No decision shall be taken by the management on any of the matters listed in Schedule IX without being brought up for discussion in the appropriate labour management council or contrary to the recommendation of the council.

(*b*) Where a decision is taken without consulting the council or contrary to its recommendation it shall be open to the recognised union to raise a labour dispute in so far as it affects the terms of employment and conditions of work and the provisions of the act shall apply with regard to the settlement of disputes either by collective bargaining, arbitration, conciliation, mediation or adjudication as the case may be.

(*c*) In making its recommendation a council shall not contravene the provision of this Act including the Schedules thereto or the rules or regulations prescribed thereunder and the representatives of employers and employees shall not contract out of any such provisions.

(*5*) The representatives of employees in the labour management council shall not divulge any information pertaining to business, sales, manufacturing procedure or any other trade practice or trade deal which comes to their knowledge in the course of meetings of the council or through papers circulated to them.

Employees' Cooperative Society.

156. *(1)* Any group of seven or more employees may join together on a basis of equal rights and obligations and form a society for—

(i) administration of a programme of employment training, safety and health or social security;

(ii) running a school, hospital, bank, consumer stores or any other welfare or commercial activity;

(iii) taking over a sick industrial unit for management; or for;

(iv) undertaking construction of houses or any other economic activity for mutual benefit.

(2) Every such society shall draw up a constitution and a set of bylaws to regulate its working.

(3) The appropriate Government shall make rules for regulating the working of such bodies.

(4) the Central Government shall frame a set of model rules and circulate the same among the State Governments for adoption.

CHAPTER VII

SOCIAL SECURITY

Social Security Schemes.

157. *(1)* **The Central Government shall, after consultation with the National Social Security Authority of India established under section 201 and after previous publication in the manner prescribed, formulate one or more schemes for the provision of social security for employees generally or for any class or classes of employees, or for self-employed persons.**

(2) The State Government may, after consultation with the Central Board of Social Security or the State Board of Social Security concerned, as the case may be, and after previous publication formulate one or more supplementary schemes for the provision of social security for any class or classes of employees, or self-employed persons who are not covered by the schemes drawn up under sub-section *(1)* and specify the establishment or classes of employees and categories of self-employed persons to whom the scheme or schemes shall apply.

(3) A scheme may provide for—

(i) the application of the scheme to establishments or classes of establishments, employees or classes of employees, persons or classes of persons, specifying the mode of admission to the scheme;

(ii) registration of the establishments or employers and persons to whom the scheme applies;

(iii) fixation of the rates of contribution;

(iv) collection of contributions;

(v) dispensation of the benefits;

(vi) administration of the scheme;

(vii) investment of funds;

(viii) accounting of the receipts, disbursements, and balances and their audit;

(ix) annual reports; and

(x) other incidental and supplementary matters.

(4) A scheme made under this section may provide that any of its provisions shall take effect either prospectively or retrospectively from such date as may be specified in the scheme.

(5) Nothing in this section shall affect the right of an employee to receive better terms of social security under any award or agreement or contract with the employer.

Establishment of Social Security Fund.

158. *(1)* **As soon as may be after making a scheme, there shall be established a Fund to be called the Social Security Fund of India or of a State, as the case may be.**

(2) The Fund shall vest in and be administered by the Central Board of Social Security or State Board of Social Security, as the case may be.

Contributions.

159. *(1)* Every employer of an establishment to which the scheme applies shall make a consolidated contribution for various social security benefits to the employees of the establishment at the prescribed rate not exceeding thirty percent. of the wages of the employees every month.

(2) (a) Where any employment injury is sustained by an employee by reason of the negligence of the employer to observe any of the safety rules laid down by or under this Act in any establishment or by reason of any wrongful act of the employer or his agent, the appropriate board of social security shall, notwithstanding the fact that the employer has paid the contribution prescribed in subsection *(1)* in respect of such employee, be entitled to be reimbursed by the employer the actual present value of the periodical payments which the appropriate board of social security is liable to make under this Act;

(b) For the purpose of this Act, the actual present value of the periodical payments shall be determined in such manner as may be prescribed.

(3) (a) Where the appropriate Board of Social Security considers that the incidence of sickness among the employees is excessive by reason of—

(i) insanitary working conditions in the establishment or the neglect of the employer to observe any health regulations enjoined on him by or under this Act or any other law for the time being in force; or

(ii) insanitary conditions of any tenements or lodgings occupied by the employee and such insanitary conditions are attributable to the neglect of the employer concerned to observe any health regulations enjoined on him by or under this code or any other law for the time being in force,

It may send to the employer a claim for the payment of the amount of extra expenditure incurred by the Board as sickness benefit;

(b) Where the claim is not settled by agreement, the appropriate board may refer the matter with a statement in support of the claim to the Labour Court.

(4) Subject to the provisions of clause *(3)*, every employee to whom the scheme applies shall make a consolidated contribution to be eligible for the social security benefits at the prescribed rate not exceeding fifteen percent. of monthly wages.

(5) The employees whose actual wages do not exceed the amount prescribed by the appropriate Government shall be exempt from making any contribution.

(6) **The appropriate Government shall, after due appropriation by Parliament or State Legislature, by law make a contribution to the Social Security Fund at the rates not exceeding five per cent. of the Wages of the employees who are exempt from making any contribution.**

(7) The appropriate Government may impose a social security surcharge on all or any of the taxes and duties levied by it and the proceeds of the surcharge after deducting the proportionate collection charges shall be credited to the Social Security Fund.

(8) **The appropriate Government may, after due appropriation by Parliament or State Legislature, by law, make such further contributions as it may determine.**

Benefits.

160. Subject to the provisions of this Code and the schemes made thereunder, the employees and other persons to whom the schemes apply shall be entitled to the following benefits, namely:—

(a) Medical Benefit; *(b)* Sickness Benefit; *(c)* Maternity Benefit; *(d)* Disablement Benefit; *(e)* Invalidity Benefit; *(f)* Dependents Benefits; *(g)* Terminal Benefit; *(h)* Unemployment Benefit; *(i)* Old Age Benefit; *(j)* Provident Fund Benefit; *(k)* Insurance Benefit and *(l)* Guarantee of payment of wages in the event of failure of the employers to pay the wages due to permanent closure or insolvency of establishments.

Sickness Benefits.

161. *(1)* Every person to whom the scheme applies shall be entitled to Sickness Benefit in cash if he suffers a loss of income due to sickness.

(2) Sickness Benefit shall be at a rate equal to sixty percent. of the wages provided that it shall not be less than the minimum wage prescribed by the appropriate Government.

(3) Sickness Benefit shall be payable for the duration of sickness but not exceeding ninety one days, provided that it shall not be paid for the first two days of sickness in respect of each spell of sickness unless it follows a spell of sickness within less than fifteen days and if a person is suffering from any of the prescribed diseases Sickness Benefit shall be paid for an extended period as may be prescribed from time to time.

(4) The person shall be entitled to leave of absence with or without Sickness Benefit for the entire period of sickness including the period of convalescence on the strength of a certificate from the prescribed doctor.

Maternity Benefits.

162. *(1)* A woman to whom the scheme applies shall be entitled to periodical or other payments in the form of maternity benefit in case of confinement or miscarriage or sickness arising out of pregnancy, confinement, premature birth of child or mis-carriage.

(2) The maternity benefit shall be payable at the rate at which the woman was drawing wages immediately before the commencement of six weeks from the date of her confinement or expected date of confinement.

(3) If the woman dies during her confinement or during the period of six weeks immediately following her confinement leaving behind, in either case, the infant, maternity benefit shall be paid for the whole of that period but if the infant also dies during the said period, then, for the days up to and including the day of death of the child to her legal representative.

(4) In case of miscarriage the woman shall be entitled to maternity benefit at the same rate as applicable to confinement.

(5) In case of sickness arising out of pregnancy, confinement, premature birth of a child or miscarriage the woman shall be entitled, in addition to the maternity benefit payable, under sub-section *(1)* to *(4)*, sickness benefit, up to a period of ninety one days.

(6) No employer shall knowingly put a woman to any work during the period of six weeks immediately following the day of her delivery or miscarriage.

(7) No woman shall work in any establishment during the period of six weeks immediately following the day of her delivery or her miscarriage.

(8) No pregnant woman shall on a request being made by her in this behalf be required by her employer to do during the period of ten weeks before the date of her expected delivery, any work which is of arduous nature or which involved long hours of standing or which in any way is likely to interfere with her pregnancy or the normal development of the foetus or is likely to cause her miscarriage or otherwise to adversely affect her health. .

(9) Any woman who is entitled to maternity and sickness benefit under the provisions of this Code shall, on a notice of her maternity condition being given, be granted leave of absence for a period of twelve weeks of which not more than six weeks shall precede the expected date of her delivery and for the period of sickness during pregnancy or after confinement or miscarriage.

(10) Every women who is entitled to maternity benefit under this Code shall be entitled to free medical attendance and treatment during the period of pregnancy and confinement and post-natal care and where such medical care cannot be provided the woman shall be entitled to a medical allowance at such rate as may by prescribed.

(11) Every woman delivered of a child, who returns to duty after such delivery shall in addition to the interval for rest allowed to her be allowed in the course of her daily work two breaks of the prescribed duration for nursing the child until the child attains the age of fifteen months.

(12) A woman shall not be discharged or dismissed from service for any reason during the period of maternity leave, and the conditions of service of a woman shall also not be varied to her disadvantage during the period of maternity leave.

(13) If a women is discharged or dismissed from service during her pregnancy before she has proceeded on maternity leave it shall not have the effect of depriving her of the maternity benefit or the medical allowance admissible under the Act.

(14) No deduction from the normal and usual wages of a woman entitled to maternity benefit under the provision of this Code shall be made by reason of the nature of work assigned to her under the provisions of sub-section *(8)* or sub-section *(11)*.

(15) If a woman works in any other establishment after she has been permitted by her employer to absent herself under the provisions of sub-section *(1)* of section 162 for any period during such authorised absence she shall forfeit her claim for the maternity benefit for such period.

Disablement Benefit.

163. *(1)* If a person to whom the schemes formed under section 157 apply meets with an accident arising out of and in the course of his employment he shall be entitled to disablement benefit as follows:—

(i) if the disablement is temporary, he shall be entitled to wages at the rate applicable to sickness benefit for the entire period;

(ii) if the disablement is permanent as specified in Scheduled X and total, he shall be entitled to disablement benefit in the form of pension at a rate which shall not be less than seventy per cent of the wages drawn;

(iii) if the disablement is permanent but partial as specified in Scheduled X disablement benefit at such percentage of the disablement benefit as he would have been entitled to had the disablement been permanent and total as proportionate to the loss of earning capacity permanently caused by the injury.

(2) The absence from duty due to the disablement caused by the accident shall be treated as leave which shall be additional to all other kinds of leave admissible under the law.

(3) If a person to whom the scheme applies suffers disablement due to an occupational disease he shall be entitled to disablement benefit at the rates applicable to disablement caused by accident arising out of and in the course of his employment.

(4) The occupational disease shall be such as are listed in Scheduled VI and the National Commission of Safety and Health may by notification add to the list.

(5) The question whether a disease is occupational in nature shall be determined in accordance with the procedure laid down in the scheme.

(6) If the disablement due to an occupational disease manifests itself after cessation of his service, he will be entitled to disablement benefit as prescribed.

(7) A person who suffers disablement caused by an accident or disease arising out of and in the course of employment shall be entitled to medical attendance and treatment free of charge and if he incurs any cost on such medical attendance and treatment, it shall be reimbursed to him.

(8) If a person is disabled by accident or disease which is directly attributable to—

(i) the person having been at the time thereof under the influence of drink or drugs, or

(ii) his willful disobedience of an order expressly given or of a rule expressly framed for the purpose of securing his safety, or

(iii) the willful removal or disregard of any safety guard or other device which he knew to have been provided for the purpose of securing his safety;

he shall be entitled to disablement benefit at the rates applicable to invalidity benefit.

(9) A person claiming disablement benefit under this section shall not have any right to claim damages in respect of the disablement against the employer or any other person.

Invalidity Benefit.

164. *(1)* If a person to whom the scheme applies suffers disablement by causes which are not related to his employment he will be entitled to invalidity benefit as follows:—

(i) if the disablement is temporary he shall be entitled to invalidity benefit at the rate applicable to Sickness Benefit,

(ii) if the disablement is permanent and total he shall be entitled to invalidity benefit at the rate applicable to old age benefit which he would have been entitled to had he retired from service on the date the disablement occurred.

(2) A person who has instituted a suit for damages in respect of the disablement suffered by him against any other person in a civil court will have no right to claim invalidity benefit under this section.

(3) If the disablement is permanent but partial, he shall be entitled to invalidity benefit at such percentage of the old age benefit which he would have been entitled to, had he retired from service on the date of disablement as is proportionate to the loss of earning capacity permanently caused by the injury.

Terminal Benefit.

165. *(1)* An employee to whom the scheme applies shall be entitled to receive by way of terminal benefit an amount which shall not be less than fifteen days wages for every completed year of service or any part thereof in excess of six months subject to such maximum as may be prescribed, on the termination of his employment due to superannuation, resignation, retrenchment or disablement after completion of continuous service for not less than five years.

Explanation—An employee shall be deemed to have been in continuous service so long as his service is not terminated for any valid reason.

(2) In case an employee to whom the scheme applies, dies before attaining the age of superannuation, his dependents shall be entitled to the payment of the terminal benefit at the rate of fifteen days wages for each completed year of service rendered by the deceased employee.

(3) The completion of continuous service of five years shall not be necessary where the termination of the employment of an employee is due to death or disablement as a result of an employment injury or an occupational disease.

(4) In the case of an employee who is employed on a seasonal basis he or she in case of his premature death his dependents shall be entitled to the terminal benefit at the rate of seven days wages for each season.

(5) (i) The terminal benefit payable to an employee whose services have been terminated for any act, willful omission or commission or negligence causing damage or loss to or destruction of property belonging to the employer may be forfeited to the extent of the damage or loss so caused;

(ii) The terminal benefit payable to an employee may be wholly or partially forfeited by an order of the competent authority if his services have been terminated for riotous and disorderly conduct or any other act of violence on his part or for any act which constitutes an offence involving moral turpitude provided that such offence is committed by him in the course of his employment.

(6) In the case of a monthly rated employee fifteen days' wages shall be calculated by dividing the monthly rate of wages last drawn by twenty-six or in cases where an establishment is working for five days in a week by twenty one and multiplying the quotient by fifteen.

(7) In the case of piece rated employee, daily wages shall be computed on the basis of the average of the total wages received by him for a period of three months immediately preceding the termination of his employment.

(8) If a person has served in more than one establishment, the service rendered in all the establishments shall be combined to determine the total number of completed years of service he has rendered qualifying for the terminal benefit.

(9) For the purpose of computing the terminal benefit payable to an employee who is employed after a partial permanent disablement on reduced wages, his wages for the period preceding his disablement shall be taken to be the wages received by him during that period and his wages for the period subsequent to his disablement shall be taken to be the wages as so reduced.

(10) The terminal benefit shall be paid in one lumpsum immediately after the termination of service.

Old age Benefit.

166. *(1)* An employee to whom the scheme applies and who retires from service on superannuation or otherwise after completion of a minimum of thirty years of service shall be entitled to a monthly pension which shall not be less than fifty percent. of the wages last drawn subject to such minimum amount as may be prescribed.

(2) An employee who retires from service on superannuation or otherwise after completion of less than thirty years but not less than ten years of service shall be entitled to pension at such percentage of the full rate payable in case or retirement after completion of thirty years service as is proportionate to the number of years of service actually rendered.

(3) An employee who retires from service before attaining the age of superannuation shall be entitled to draw pension admissible under this section only after attaining the age of superannuation.

(4) If a person has served in more than one establishment the service rendered in all the establishments shall be combined for determining the total period of service rendered which qualifies for pension.

(5) Pension admissible under this section may be commuted to the extent of 33.33 per cent of the gross amount at the option of the pensioner.

Dependents' Benefit.

167. *(1)* In case a person to whom the scheme applies dies before attaining the age of superannuation due to accident or occupational disease in the course of and arising from his employment, his dependents shall be entitled to dependents' benefit at sixty per cent of the wages last drawn.

(2) In case the person dies while in service or before attaining the age of superannuation due to other causes his dependents shall be entitled to pension at the same rate as would have been payable to the employee had he retired from service on the date of his death.

(3) In case the person dies after attaining the age of superannuation, retirement, disablement or invalidity his dependents shall be paid four-fifths of the pension, disability benefit or invalidity benefit he was entitled to.

(4) The dependents' benefit shall be paid as follows:

(i) where there is a single spouse it shall be paid to the spouse in entirely;

(ii) where there is more than one spouse, it shall be divided among them equally;

(iii) where there is no spouse, or the spouse dies, the dependents' benefit shall be paid to the nominee of the person concerned or the spouse, as the case may be and—

(a) where there is no nominee, the dependents' benefit shall be paid to the members of the family;

(b) where there is more than one member of the family, it shall be divided among the members of the family equally;

(c) where there is no member of the family, the dependents' benefit shall be paid to the other dependents;

(d) where there is more than one such dependent it shall be divided among the dependents equally.

Provident Fund Benefit.

168. *(1)* An amount representing ten per cent. of the wages of every person to whom the scheme applies, except those who have made no contribution, shall be placed in a separate fund called the Provident Fund in the name of the person concerned.

(2) The balance in the Fund shall be invested separately as per guidelines and the Provident Fund account shall be credited with the interest earned, compounded on monthly basis.

(3) The moneys available in a Provident Fund account may be withdrawn for the following purpose subject to such limits as may be prescribed, namely:—

(i) construction or purchase of a house for one's own living including the purchase of a site for the purpose;

(ii) marriage of oneself or one's dependents;

(iii) any other purpose as may be prescribed.

(4) Refundable advances may be made from the provident fund accounts subject to such limits as may be prescribed for the following purposes, namely:—

(i) higher education of one's dependents;

(ii) medical treatment of oneself or one's dependents; or

(iii) any other purpose as may be prescribed.

(5) A member may withdraw the full amount standing to his credit in the Fund:—

(i) on superannuation;

(ii) on retirement;

(iii) on permanent total disablement for any reason;

(iv) on termination of service for any other reason; or

(v) on resignation.

(6) On the death of a person before the amount standing to his credit is paid, it shall be paid to his nominee, or, if there is no nomination, to the members of his family in equal shares.

(7) If the person opts to keep the balance in the Provident Fund account even after attaining the age of superannuation, the interest earned on it may at his option be paid to him annually.

Insurance Benefit.

169. In the event of death of a person to whom the scheme applies before attaining the age of superannuation, the dependent members of his family shall be paid by way of insurance benefit—

(i) a sum not less than repees five hundred as prescribed for funeral expenses;

(ii) a further sum not less than rupees five thousand as prescribed to help them tide over immediate difficulties.

Medical Benefit.

170. *(1)* Every person to whom the scheme applies and the members of his family whose condition requires medical treatment and attendance shall be entitled to receive medical benefit of such kind and on such scale as may be prescribed.

(2) Such medical benefit may be given either in the form of out patient treatment and attendance in a hospital or dispensary, clinic or other institution or by visits to the home of the person concerned or treatment as in patient in a hospital or other institution to which he is allotted.

(3) Nothing in this Code shall entitle such a person to claim medical treatment except as is provided by the hospital, dispensary or other institution to which he is allotted or to claim reimbursement of any expenses incurred in respect of any medical treatment except as may be prescribed.

(4) The appropriate Board of Social Security shall co-ordinate its policy and programmes relating to the provision of medical benefit under this Code with those of the State Medical Service and the State Health Service concerned and other authorities providing medical and health facilities so as to make them complementary to one another.

Guarantee of Payment of Wages.

171. In the event of failure of the employers to pay the wages and other statutory dues of their employees due to permanent closure of their establishments or their insolvency, the same shall be paid from the Social Security Fund and after payment of the dues the claims of the employees shall stand transferred to the Fund so that the Fund shall be responsible for and entitled to the collection of the amounts from the employers, or their successors, as the case may be.

Unemployment Benefit.

172. *(1)* A permanent employee who has completed one year of service to whom the scheme applies and loses his employment due to reduction in the work force or closure, bankruptcy or liquidation of the undertaking in which he is employed for no fault of his, shall be entitled to unemployment benefit at the rate of fifty per cent, of the wages last drawn for a period of twenty six weeks or until he is reemployed whichever is earlier commencing after seven days from the date of termination of the service.

(2) The appropriate Board shall give such an unemployed person necessary assistance for securing alternative employment including retraining for a new job and for his placement.

(3) In the event of a person who is covered by the scheme and has migrated abroad for purposes of employment with an emigration clearance certificate but is sent back for any reason within less than one year after his migration before completion of his normal tenure of employment, he shall be paid such amount as may be prescribed until he is

reemployed for a period not exceeding six months or until he is reemployed whichever is earlier.

(4) For purposes of sub-section 3, every person who migrates with an emigration clearance certificate shall be required to make a contribution to the Social Security Fund as prescribed.

Welfare Fund.

173. *(1)* The appropriate Government shall establish one or more Welfare Funds for providing social security to the classes of employees or persons who are not covered by the social security schemes framed under other sections.

(2) For the purpose of these Welfare Funds, the Central Government may levy and collect by way of cess a duty of customs or excise on any product or a fee on the marketing of the goods at a rate not exceeding five per cent of their value.

(3) The proceeds of the cess or fee after deducting the cost of collection as determined by the appropriate Government shall be credited to the Welfare Funds after the due appropriation by the Parliament by law.

(4) **The appropriate Government may, after due appropriation by Parliament or the State Legislature by law make a further contribution to the Welfare Funds and the moneys so received shall be credited to the Funds.**

(5) The income from investment of surplus funds in the Welfare Funds, if any, shall also be credited to the Welfare Funds.

(6) The Welfare Funds shall vest in and be administered by the Central Board of Social Security or the State Board of Social Security, as the case may be.

(7) (i) The Welfare Funds shall be applied to meet the expenditure incurred in connection with measures and facilities which in the opinion of the Board are necessary or expedient for the social protection of the employees or persons for whose benefit the Welfare Funds are established.

(ii) In particular, the Welfare Fund shall be utilised for providing the following benefits on such scale as may be prescribed, namely:—

(i) Medical benefit, *(ii)* Sickness benefit, *(iii)* Maternity benefit, *(iv)* Unemployment benefit, *(v)* Disability benefit, *(vi)* Dependents benefit, *(vii)* Old age benefit, and *(viii)* Guarantee of payment of wages.

(8) The appropriate Government shall frame appropriate schemes and issue appropriate rules or regulations for giving effect to these provisions.

Social Security for Self-employed Persons.

174. *(1)* The Central Government shall, after consultation with the National Social Security Authority of India, and after previous publication in the manner prescribed, frame one or more schemes for the provision of social security to self-employed persons including those engaged in agriculture and allied occupations and specify the categories of persons to whom the scheme shall apply.

(2) The appropriate Government may, after consultation with the Central or State Board of Social Security as the case may be, frame one or more supplementary schemes for the provision of social security to any category of self-employed persons who are not covered by the schemes drawn up under sub-section *(1)* and specify the categories of persons to whom the scheme shall apply.

(3) A scheme may provide for:—

(i) the application of the scheme to the categories of self-employed persons specifying the mode of admissions to the scheme,

(ii) registration of the persons who are admitted to the scheme,

(iii) fixation of the rates of contribution,

(iv) collection of the contribution,

(v) fixation of the rates of benefits and dispensation of the benefits,

(vi) administration of the scheme,

(vii) investment of funds,

(viii) accounting of the receipts disbursements and balances and for their audit,

(ix) annual reports, and

(x) other incidental and supplementary matters.

(4) A scheme framed under this section may provide that any of its provisions shall take effect either prospectively or retrospectively from such date as may be specified in the scheme.

(5) (a) Every person to whom the scheme framed under this section applies shall make a contribution to the Social Security Fund at such rate as may be prescribed which shall not be exceeding twenty percent of their income, as declared by them, provided that if the declared income exceeds rupees sixty thousand the amount of contribution shall be calculated on an annual income of rupees sixty thousand only;

(b) Persons whose estimated income is below the prescribed amount shall be exempted from making the contribution.

(6) The appropriate Government shall, after due appropriation by Parliament or the State Legislature, as the case may be, by law make a contribution to the Social Security Fund at the prescribed rate in respect of persons who are exempted from making any contribution.

(7) The appropriate Government may levy and collect by way of cess or surcharge on any of the taxes or duties or collect fees for any service for raising funds for purposes of this section.

(8) **The appropriate Government may, after due appropriation, by law by Parliament or the State Legislature as the case may be, make such further contributions to the Social Security Fund as necessary for the purpose of this section.**

(9) Subject to the provisions of this Code and the schemes framed thereunder, the persons to whom the scheme framed under this section applies, shall be entitled to the following benefits, namely:—

(i) Medical benefit; *(ii)* Maternity benefit; *(iii)* Invalidity benefit; *(iv)* Old age benefit; *(v)* Dependents' benefit; and *(vi)* Insurance benefit.

(10) In the event of a person covered by the scheme framed under this section suffering a loss of income due to—

(a) failure of crops;

(b) death of cattle poultry, pigs, etc.;

(c) loss of boats and other similar sources of income owing to flood, cyclone, fire and other natural causes he shall be paid by way of an insurance benefit such amount as may be prescribed not exceeding fifty per cent of the loss suffered by him.

(11) The extent of loss and the amount to be paid shall be determined by the competent authority in the manner prescribed.

Social Security for Persons who are not in employment.

175. *(1)* **The Central Government shall, after consultation with the National Social Security Authority of India frame one or more schemes for the provision of social security to persons who are not in employment and whose total annual family income is below the prescribed amount and specify the category of persons to whom a scheme shall apply.**

(2) **The appropriate Government may, after consultation with the Central or the State Board of Social Security, as the case may be, frame one or more supplementary schemes for the provision of social security to persons who are not in employment and whose total family income is below the prescribed amount but**

are not covered by any scheme framed under clause *(1)* and specify the category of persons to whom the scheme shall apply.

(3) A scheme may provide for—

(i) the application of the scheme to the categories of persons for whom it is meant and specify the mode of admission to the scheme;

(ii) registration of persons who are admitted to the scheme;

(iii) fixation of the rates of benefit and dispensation of the benefits;

(iv) administration of the scheme;

(v) investment of funds;

(vi) accounting of the receipts, disbursements and balances and audit thereof;

(vii) annual reports; and

(viii) other incidental and supplementary matters.

(4) Subject to the provisions of this Code and the schemes framed thereunder the persons to whom the schemes framed under this Section apply shall be entitled to the following benefits, namely—

(i) Medical benefit; *(ii)* Unemployment relief; *(iii)* Old age benefit; and *(iv)* Invalidity benefit.

(5) The scale of and the conditions governing these benefits shall be such as may be prescribed by the appropriate Government in consultation with the National Social Security Authority of India.

(6) **The entire cost of providing these benefits shall be met by the appropriate Government.**

(7) The appropriate Government shall after due appropriation by Parliament or the State Legislature as the case may be, by law, make an appropriate contribution to the Social Security Fund to meet the cost.

(8) The appropriate Government may impose a cess or a surcharge on any of the taxes and duties or collect a fee for any service rendered for raising funds for purposes of this section.

(9) The provisions of sub section *(4)* and 5 of section 157 shall in so far as may be, apply to the schemes made under this section.

Authorities etc. for the administration of social security.

176. For the administration of social security, obligations and responsibilities of the employees, adjudication of disputes arising therefrom and all other ancillary and connected, matters therewith shall be as specified in Schedule XI.

CHAPTER VIII

ADMINISTRATION

Tripartite consultative machinery.

177. There shall be constituted, by notification, a tripartite machinery for regular consultation regarding labour policy, labour legislation, labour welfare programmes and related matters, by the Central Government, consisting of

(i) a General Conference of the members which shall be called the Indian Labour Conference;

(ii) a Standing Committee of the Indian Labour Conference;

(iii) the Secretariat of the Indian Labour Conference.

Indian Labour Conference.

178. *(1)* The Indian Labour Conference shall consist of the Minister for Labour in the Central Government as Chairman and Secretaries to the Government of India in such concerned Ministries as may be prescribed, the representatives of each State Government, thirty persons to represent employers and thrity persons to represent employees as members;

(2) The meeting of the conference shall be held once every year.

(3) Membership of the Conference representating the employers and employees shall be in accordance with such rules as may be made after consultation with the members.

(4) Notwithstanding anything contained in sub-section *(3)* in the first constitution of the Conference representatives of the organisations of employers and employees shall be nominated by the Central Government on the recommendation of the respective organisations as may be considered representative by the Central Government.

(5) Each member may be accompanied by advisers not exceeding two in number.

(6) Organisations of employers and employees who are not represented in the conference and other institutions and organisations working in the field of labour may, subject to the approval of the President of the conference send observers to the conference, so however, the observers will have no right to participate in the discussions in the Conference, except with the permission of the President of the Conference for the time being.

(7) The procedure of the Conference shall be regulated by such rules as may be made after consultations with the members thereof.

(8) The Conference shall—

(a) review the labour situation in the country;

(b) consider the Conventions and Recommendation of the International Labour organisation for adoption;

(c) consider the leglislative proposals of the Central Government before they are moved in the Parliament;

(d) provide a forum for consultation on the items of the agenda of the International Labour Conference and other meetings connected therewith and hearing of complaints regarding violation of the rights of labour;

(e) review the implementation of the conventions and recommendations of the International Labour Organisation, Directive Principles of the Constitution concerning labour and the provisions of this code and other labour laws;

(f) review the implementation of the programme drawn up by the Central Government for the benefit of labour;

(g) coordinate the conclusions and recommendations of the State Labour Conference;

(h) review the implementation of its own recommendations;

(i) adopt such resolutions and make such recommendations as it may deem necessary;

(j) and do such other things as may be decided in the Conference itself;

(9) The agenda of the Conference shall be prepared by the Standing Committee.

(10) The Central Government shall, within a period of two years from the closing of the last session of the Conference, lay the recommendations of the Conference before Parliament with a statement of action taken thereon.

Standing Committee.

179. *(1)* The Standing Committee of the Indian Labour Conference shall consist of the Minister of Labour in the Central Government as Chairman and not more than four Secretaries to the Government of India in such concerned Ministries as may be prescribed, persons to represent State Governments by rotation, ten persons to represent employers and ten persons to represent employees as members thereof;

(2) Members representing State Governments, employers and employees shall be such as may be prescribed on the recommendation of the Conference.

(3) The Standing Committee shall meet as often as required at intervals not exceeding six months.

(4) The procedure of the committee shall be prescribed on the recommendations of the Committee.

(5) The Committee shall consider proposals of policy and programmes of urgent nature which cannot await the meeting of the conference.

Director-General.

180. *(1)* **There shall be a Director-General of the Indian Labour Conference who shall be appointed by the Central Government.**

(2) **The Director-General shall have the assistance of such other staff as may be required.**

(3) The functions of the Director-General shall include—

(a) collection and distribution of information relating to conditions of work and life of labour;

(b) examination of the subjects which are proposed to be brought before the Standing Committee and the Conference;

(c) conduct of such special investigations as may be ordered by the Standing Committee and the Conference.

(d) preparation of documents on the various items of the agenda for the meeting of the Standing Committee and the Conference;

(e) preparation of the proceedings of the Conference and the meetings of the Standing Committee and issues thereof;

(f) editing and issue of publications in English, Hindi and other regional languages, dealing with problems of labour;

National Tripartite Committee.

181. There shall be constituted, by notification a national tripartite committee for considering the problems relating to each of the activities as may be specified by the Indian Labour Conference with a bearing on the conditions of labour employed therein;

(i) The composition and procedure of the Committee shall be such as may be prescribed on the recommendations of the conference.

(ii) The committees shall consider the State of—

(a) employment;

(b) labour relations;

(c) safety and health;

(d) living conditions of labour and

(e) technological developments affecting labour in the respective activities and make appropriate recommendations for improving the conditions of labour and for development of the activity.

State Tripartite Machinery.

182. *(1)* There shall be a tripartite machinery for regular consultation regarding labour policy, labour legislation, labour welfare programmes and related matters, in each State.

(2) The machinery shall consist of—

(i) a general Conference of representatives of the members which shall be called the State Labour Conference;

(ii) a Standing Committee of the State Labour Conference;

(iii) the Secretariat of the State Labour Conference;

(3) The composition, the method of appointment and the terms and conditions of appointment of the members of the State Labour Conference and the Standing Committee of the Conference and the Secretariat of the Conference, their functions and their procedure

shall be such as may be prescribed on the lines of tripartite machinery referred to in Section 177 by the State Government;

National Council of Employment.

183. *(1)* **There shall be established a National Council of Employment.**

(2) The Council shall be a body corporate.

(3) The body shall be tripartite in character and shall include persons who have made notable-contribution in the fields of economics, employment, manpower planning and other related subjects.

(4) The composition, method of appointment, term of office and other conditions of service of the Chairman, Vice-Chairman and members of the Council shall be such as may be prescribed by the Central Government.

(5) The functions of the National Council of employment shall be to advise the appropriate Government on—

(a) the development and adoption of an employment policy designed to promote full productive and freely chosen employment;

(b) co-ordination between employment policy and the overall economic and social policy and development programmes;

(c) assessment of the incidence of unemployment and under employment and the measures that may be taken for relief of the unemployed and the underemployed;

(d) promotion of employment overseas;

(e) development of short-term employment programmes;

(f) employment Market Analysis and manpower, planning;

(g) prevention of discrimination in employment;

(h) reservation for the Scheduled Castes, Scheduled Tribes, backward classes and other specified categories of persons; and

(i) related matters.

Central Board of Employment.

184. *(1)* **There shall be established, by notification, a Central Board of Employment.**

(2) the Central Board shall be a body corporate.

(3) The Central Board shall be tripartite in character and shall include persons who have made notable contribution in the field of economics, employment, unemployment, manpower, planning, statistics and other related subjects.

(4) **The composition, method of appointment, term of office and other conditions of service of the Chairman, Vice-Chairman and members of the Council shall be such as may be prescribed by the Central Government.**

(5) The functions of the National Council of Employment shall be to advise the appropriate Government on—

(a) the development and adoption of an employment policy designed to promote full productive and free chosen employment;

(b) co-ordination between employment policy and the overall economic and social policy and development programmes;

(c) assessment of the incidence of unemployment and under employment and the measures that may be taken for relief of the unemployed and the under employed;

(d) promotion of employment overseas;

(e) development of short-term employment programmes;

(f) Employment Market Analysis and manpower planning;

(g) prevention of discrimination in employment;

(h) reservation for the Scheduled Castes, Scheduled Tribes, Backward Classes and other specified categories of persons; and

(i) related matters.

State Boards of Employment.

185. *(1)* There shall be established, by notification, a State Board of Employment in each State.

(2) The State Board shall be a body corporate.

(3) The State Board shall be tripartite in character and shall have persons who have made notable contribution in the field of economics, employment, un-employment, manpower planning, statistics and other related subjects.

(4) The composition, method of appointment, term of office and other conditions of service of the chairman, Vice-Chairman and members of the State Board shall be as prescribed by the appropriate Government.

(5) The functions of the Central and a State Board of employment shall be to;

(a) operate the employment service;

(b) administer the short term employment programmes;

(c) administer unemployment relief;

(d) prepare manpower budget and execute the same; and

(e) do all other things incidental to the above.

Power of the Boards.

186. The Central or a State Board shall exercise such administrative and financial powers as may be prescribed by the appropriate Government.

National Council of Vocational Training and Guidance.

187. *(1)* **There shall be established by notification, a National Council of Vocational Training and Guidance.**

(2) The Council shall be a body coroporate.

(3) The Council shall be tripartite in character and shall have persons who have made notable contributions in the field of vocational training and guidance.

(4) **The composition, method of appointment, term of office and other conditions of service of the Chairman, Vice-Chairman and members of the Council shall be such as may be prescribed by the Central Government.**

(5) The functions of the National Council shall be to advise the appropriate Government on the—

(i) development and adoption of appropriate comprehensive and coordinated policies and programmes of vocational guidance and vocational training, including entrepreneurship development, management training and training for self-employment.

(ii) development and adoption of complementary systems of general, technical and vocational education;

(iii) co-ordination of the programme of vocational guidance and vocational training with other policies and programmes of social and economic development such as employment promotion, social integration, rural development, development of arts and crafts, adaptation of methods and organisation of work to human requirements and improvement of working conditions.

Central Board and State Board of Vocational Training and Vocational Guidance.

188. *(1)* **There shall be established, by notification, a Central Board of Vocational Training and Vocational Guidance and State Board of Vocational Training and Vocational Guidance in each State.**

(2) The Central Board or a State Board shall be tripartite in character and shall include persons who have made notable contribution in the field of vocational training and vocational guidance.

(3) The Central Board or a state Board shall be a body corporate.

(4) The Composition, method of appointment, term of office and other conditions of service of the Chairman, Vice-Chairman and other members of the Central Board or a State Board shall be such as may be perscribed by the Central Government or, as the case may be, State Government concerned.

Powers and functions of the Central and State Boards.

189. *(1)* The functions of the Central and a State Board of Vocational Training and Vocational Guidance shall, for the purpose of encouraging adequate training of persons employed or intended to be employed in any activity, be to—

(a) provide or secure the provision of such courses or other facilities (which may include residential accommodation) for the training of those persons which the appropriate Board considers adequate having regard to the courses or facilities otherwise available to those persons;

(b) approve courses and facilities for training provided by other persons or institutions;

(c) consider and to make recommendations, from time to time, with regard to the nature and length of the training required for the employments which in their opinion require such training and further education to be associated with the training, the persons by and to whom the training ought to be given, the standards to be attained as a result of the training and the methods of ascertaining whether those standards have been attained;

(d) apply or make arrangements for the application of selection and other tests or other methods for ascertaining the attainment of the standards recommended by the appropriate board and award certificate of the attainment of those standards.

(e) assist persons in finding facilities for being trained for employment;

(f) arrange for apprehending training;

(g) carry on or assist other persons in carrying on research into any matter relating to training for employment;

(h) provide advice about training for employment in any activity.

(2) The appropriate Board may enter into contract of service or apprenticeship and persons who intend to be employed in any activity and to attend courses or avail themselves of other facilities provided or approved by the Board.

(3) The appropriate Board may at the request of the National Council of Employment or other authorities provide such advice or such other courses and facilities for training as are mentioned in the request.

(4) The appropriate Board may at the request of an employer in any activity provide for his advice about training in such activity.

(5) The appropriate Board may enter into agreement with persons for making payments to the Board for exercising its functions.

(6) The appropriate Board may take part in any arrangements for selection of persons for training for employments.

(7) The appropriate Board may:—

(a) Pay maintenance and travelling allowances to persons attending courses provided or approved by the Board;

(b) make grants or loans to persons providing courses or other facilities approved by the Board, to persons who make studies for the purpose of providing such courses or facilities and persons who maintain arrangements to provide such courses or facilities which are not for the time being in use;

(c) pay fees to persons providing further education in respect of persons who

receive it in association with their training in courses provided or approved by the Board.

(8) The appropriate Board—

(a) shall from time to time submit to the National Council of Vocational Training and Vocational Guidance for its approval proposals for the exercise of its powers and discharge of its functions conferred on it by this section; and

(b) shall from time to time submit to the National Council, for its approval, proposals for the delegation of all or any of those powers and functions to Advisory Committees.

(9) The appropriate Board shall give to the National Council such information and facilities for obtaining information with regard to the exercise of its functions, in such manner and at such times as the National Council may resonably require.

(10) The appropriate Board may require employers in the industry; *(a)* to furnish such returns and other information *(b)* to keep such records as may be prescribed and produce them for examination on behalf of the Board as appears to the Board to be necessary for carrying out its functions.

(11) The National Council may direct the appropriate Board to exercise the power to require the furnishing of information which is conferred on it by sub-section *(10)* so as to require employers in any activity to furnish in such form and on such information as the National Council considers that it needs for the purpose of its functions and it shall be the duty of the appropriate Board to comply with the direction.

(12) The appropriate Board may with the approval of the National Council exercise such powers and functions in connection with training for employment outside India of persons of Indian origin as are exercisable by it in connection with the training of persons employed or intending to be employed within India, and the Board may enter into agreements with any authority for the making of payments to the Board in respect of the exercise in pursuance of this sub-section of powers and functions by the Board.

(13) The appropriate Board may, with the approval of the National Council, delegate any power exercisable by it by virtue of this section to an advisory committee appointed for that purpose.

Vocational training and Vocational Guidance Fund.

190 *(1)* The National Council may on its own motion or on the recommendation of the Central Board or a state Board submit to the appropriate Government proposals for the raising and collection of a duty or cess for meeting the expenses on vocational training and vocational guidance.

(2) The duty or cess shall be imposed, in accordance with an order made by the appropriate Government giving effect to the proposals approved by the National Council, on employers in the relevant activity except in so far as they are exempted from it by an appropriate order but nothing in this Code shall be construed as requiring the appropriate Government to make a levy of it if it considers inexpedient to do so.

(3) Proposals for levying a duty or cess must include proposals for exempting from the levy any employer who in view of the small number of his employees or for any other reason in the opinion of the Board is to be exempted and the appropriate Government shall not levy the duty or cess in such cases.

(4) The duty or cess levied under this section shall not exceed 0.5 per cent, of the wages of the persons employed by an employer.

(5) the proceeds of the duty or cess levied under this section shall be kept in a separate Fund called the Vocational Training and Guidance Fund in the Public Account earmarked for the purpose of vocational training and vocational guidance.

(6) **The appropriate Government in consultation with the National Council may**

make grants and loans to the appropriate Board from the Fund for the purpose of vocational training and vocational guidance.

(7) The appropriate Government may in consultation with the National Council give to the appropriate Board such directions as it thinks fit for the purpose of securing that the funds provided to it are utilised for the purpose of vocational training and vocational guidance subject to such conditions as may be specified and it shall be the duty of the Board to comply with the directions.

Advisory Committees to be appointed by Central and State Boards.

191. *(1)* The Central and State Boards may appoint Advisory Committees in such number as may be necessary to advise on the syllabi, curricula and other aids for vocational training and vocational guidance and related matters.

(2) The Committees shall consist of experts in the respective fields of training drawn from universities and other technical institutions and organisations of employers and workers.

(3) The composition, method of appointment, term of office and other conditions of service of the members of the Advisory Committees shall be such as may be prescribed by the appropriate Governments.

National Commission of Safety, health and work environment.

192. *(1)* **There shall be established, by notification, a National Commission of Safety, Health and Work Environment.**

(2) The Commission shall be a body corporate.

(3) The Commission shall be tripartite in character and shall have persons who have made notable contribution in the field of safety and health.

(4) The composition, method of appointment, term of office and other conditions of service of the Chairman, Vice-Chairman and members of the Commission shall be such as may be prescribed by the Central Government.

(5) The functions of the National Commission shall be—

(a) to lay down the standards of safety and health and to issue regulations, to be observed by the employers in the various fields of activity;

(b) to advise the appropriate Governments on the measures for effective implementation of the standards;

(c) to monitor the observance of the standards and regulations;

(d) to co-ordinate with other organisations, responsible for control of pollution;

(e) to advise the Central Government on the enactment of laws or amendments to the existing laws relating to safety and health.

Advisory Committees to be appointed by National Commission.

193. *(1)* **The National Commission may appoint Advisory Committees in such number as considered necessary to study the occupational health and safety problems and to advise on the standards and regulations to be observed.**

(2) The Committee shall consist of representatives of management and labour in the respective fields of activity and specialists drawn from universities and research institutions.

(3) **The composition, method of appointment, term of office and conditions of service of the members of the Committee shall be such as may be prescribed by the Central Government.**

Central Board and State Boards of Occupational Safety and Health.

194. *(1)* **There shall be established, by notification, a Central Board of Safety and Health and a State Board of Safety and Health in each State.**

(2) The Central Board or a State Board shall be a body corporate.

(3) The Central Board and the State Board shall be tripartite in character and shall have persons who have made notable contributions in the field of safety and health.

(4) **The composition, method of appointment, term of office and other conditions of service of the Chairman, Vice-Chairman and other members of the Central and the State Board shall be such as may be prescribed by the Central Government, or, as the case may be, the State Government concerned.**

Functions of the Central and State Boards.

195. *(1)* The functions of the Central Board shall be—

(a) to assist the Central Government in formulating strategies and programmes for effective implementation of the standards laid down by the National Commission in those activities for which the Central Government is the appropriate Government;

(b) to collect, interpret and disseminate information;

(c) to make arrangements for carrying out research, survey testing or investigation, of the problems relating to safety and health, including the publication of the results thereof,

(d) to arrange for education and training in all matters relating to safety and health;

(e) to undertake directly, or indirectly through other persons or authorities or institutions, as the case may be, such other activities as may be necessary in furtherance of the purposes of this part either on its own motion or on the request of the Central Government.

(2) The Central Board may at any time if it considers necessary or expedient to investigate any accident occurrence, situation or any other matter concerning an activity for which the Central Government is the appropriate Government or with a view to making the regulations direct the Chief Inspector concerned or any other person or persons to investigate the matter and to make a special report thereon.

(3) The Central Board may, if it considers it expedient so to do, appoint a competent person to inquire into and report to it on any case where an occupational disease has been or is suspected to have been contracted in a factory, mine or other establishment and may also appoint one or more persons possessing legal or special knowledge to act as assessors in such enquiry.

(4) In the exercise of its powers and the discharge of its functions the Central Board shall be bound by such directions as the National Authority may for reasons to be stated in writing, give from time to time.

(5) The state Board shall perform the same functions with respect to the activities within its jurisdiction as the Central Board performs.

Director General of Safety and Health.

196. *(1)* **There shall be a Director-General of Safety and Health.**

(2) **The Director-General shall be appointed by the Central Government.**

(3) **The Central Government shall also appoint such other officers and employees as it may consider necessary for the administration of the programmes of Safety and Health.**

(4) **The method of recruitment, salary and allowances, discipline and other conditions of service of the Director-General and the other officers and employees shall be such as may be specified by the Central Government.**

(5) The Director-General shall be Secretary of the National Commission.

(6) The functions of the Director-General shall be—

(a) to provide secretarial and other services to the National Commission and the Central Board, and

(b) to take such measures as may be necessary to give effect to the decisions of the Commission or the Central Board, as the case may be.

Director of Safety and Health.

197. *(1)* There shall be Director of Safety and Health in each State.

(2) The Director of Safety and Health shall be appointed by the appropriate Government.

(3) The method of recruitment, salary and allowances, discipline and other conditions of service of the Director of Health and Safety shall be such as may be prescribed by the appropriate Government.

(4) The Director of Health and Safety shall be the Secretary of the State Board.

(5) The functions of the Director shall be to provide secretarial and other services to the State Board and to take such measures as necessary to give effect to the decisions of the State Board.

(6) The appropriate Government shall appoint such other officers and staff as it may consider necessary for the administration of the programme of safety and health.

(7) The method of recruitment, salary and allowances, and other conditions of service of the officers and staff shall be such as may be prescribed by the appropriate Government.

Safety Committees.

198. *(1)* In every establishment where a hazardous process takes place or where hazardous substances are used, handled or stored and in every establishment employing one hundred or more persons the employer shall set up a Safety Committee consisting of equal number of representatives of employees and management to promote co-operation between employees and management in maintaining proper safety and health at work and to review periodically the measures taken in that behalf.

(2) The composition of the Safety Committee, the tenure of office of its members and their rights and duties shall be such as may be prescribed.

Site Appraisal Committee.

199. *(1)* **The appropriate Government may, for the purpose of advising it on the applications for grant of permission for the location of a factory involving a hazardous process or for the expansion of any such factory, appoint a Site Appraisal Committee consisting of—**

(*i*) **a representative of the Director General Safety and Health;**

(*ii*) **Director of Safety and Health of the State where the factory is to be located;**

(iii) One representative each of the Central Board for the Prevention and Control of Water Pollution, Central Board for the Prevention and Control of Air Pollution, State Board for the Prevention and Control of Water Pollution and the State Board for the prevention and control of air pollution, a representative the Department of Environment of the appropriate Government, a representative of the meteorological department, a representative of the Town Planning Department of the appropriate Government and one representative each of the organisations of employers and employees concerned; and

(iv) not more than five other members who may be co-opted by the State Government, who shall be—

(a) a scientist having specialised knowledge of the hazardous process which will be involved in the factory;

(b) a representative of the local authority within whose jurisdiction the factory is to be established; and

(c) not more than three other persons as deemed fit by the appropriate Government.

(2) The Site Appraisal Committee shall examine an application for the establishment of a factory involving hazardous process and make its recommendations

to the appropriate Government within a period of ninety days of the receipt of such applications in such form as may be prescribed.

(3) Where any process relates to a factory owned or controlled by the Central Government or to a corporation or a company owned or controlled by the Central Government the appropriate Government shall co-opt on the Site Appraisal Committee a representative of the concerned Ministry of the Central Government as a member of the Site Appraisal Committee.

(4) The Site Appraisal Committee shall have power to call for any information from the person making an application for the establishment or expansion of a factory involving hazardous process.

Safety Officers

200. *(1)* **Every establishment where three hundred or more persons are employed or where manufacturing process or operation involves any risk of bodily injury, poisoning or disease or any other hazard to the health of the person employed in the establishment, the employer shall employ or designate such number of persons as Safety Officers as may be prescribed.**

(2) **The duties, qualifications and conditions of service of Safety Officers shall be such as may be prescribed.**

National Social Security Authority of India.

201. *(1)* **There shall be established, by notification, for the administration of social security an authority to be known as the National Social Security Authority of India.**

(2) The National Security Authority of India shall be a body corporate.

(3) The National Authority shall be tripartite in character and shall have persons who have made notable contribution in the field of social security appointed by the Central Government.

(4) **The composition, method of appointment, terms and conditions of service of the members of the National Authority shall be such as may be prescribed by the Central Government.**

(5) It shall be the function of the National Authority—

(i) to advise the Central and State Governments generally in the matter of social security administration;

(ii) to prepare or approve the schemes of social security;

(iii) to co-ordinate between the Central and State Government in the matter implementation of the scheme of social security; and

(*iv*) to monitor and to report on the implementation of social security schemes.

(6) the National Authority shall have all such administrative and financial powers as may be necessary for discharging its functions.

Central Board of Social Security.

202. *(1)* **The Central Government shall, by notification, constitute with effect from such date as may be specified therein a Central Board of Social Security.**

(2) The Central Board shall be a body corporate.

(3) The Central Board shall be tripartite in character and shall have persons representing the medical profession and other interests and persons who have made notable contributions in the field of social security.

(4) The composition, method of appointment, terms and conditions of the Chairman, Vice-Chairman and other members of the Central Board shall be such as may be prescribed.

(5) It shall be the function of the Central Board—

(i) to frame or approve supplementary schemes for application in respect of the activities for which the Central Government is the appropriate Government; and

(ii) to administer the scheme of social security in respect of the activities for

which the Central Government is the appropriate Government.

(6) The Central Government shall exercise such administrative and financial powers as are conferred on it by the schemes.

(7) In the exercise of its powers and the discharge of its functions the Central Board shall be bound by such directions as the National Authority may, for reason to be stated in writing, give from time to time.

(8) The Central Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including a balance sheet in such form as may be prescribed.

(9) (a) The accounts of the Central Board shall be audited annually by the Comptroller and Auditor General of India;

(b) The auditors shall have at all reasonable times access to the books of accounts and other documents of the Central Board and may for the purpose of audit call for such explanation and information as they may require or examine any member or officer of the State Board;

(c) the auditors shall forward to the State Government a copy of their report together with an audited copy of the accounts of the State Board which shall be laid before the State legislature;

(d) the cost of audit as determined by the Comptroller and Auditor General of India shall be paid out of the funds of the Central Board.

State Boards of Social Security.

203. *(1)* Every State Government shall, by notification, constitute with effect from such date as may be specified therein a State Board of Social Security, for the state concerned.

(2) The provisions of Section 202 (other than sub-section) *(1)* thereof shall apply in relation to a State Board of Social Security as they apply in relation to the Central Board of Social Security for reference to the State Government to the Central Government.

Central and State Medical Benefit Councils.

204. *(1)* **The Central Government shall, by notification, constitute a Central Medical Benefit Council.**

(2) **The composition, method of appointment, terms and conditions of service of the Chairman and members of the Central Medical Benefit Council shall be such as may be prescribed by the Central Government.**

(3) Every State Government shall, by notification, constitute a State Medical Benefit Council for the state concerned.

(4) The composition, method of appointment, terms and conditions of service of the Chairman, Vice-chairman and members of the State Medical Benefit Council shall be such as may be prescribed.

(5) The function of the Medical Benefit Councils shall be to—

(a) prescribed the kind and scale of medical benefit to be provided under the code;

(b) advise the Central or the State Board of Social Security, as the case may be, on matters relating to the administration of medical benefit;

(c) investigate complaints in connection with medical treatment and attendance as may be prescribed;

(d) perform such other duties in connection with medical treatment and attendance as may be prescribed.

Director-General of Social Security.

205. *(1)* **There shall be a Director-General of social security.**

(2) The Director-General shall be appointed by the Central Government.

(3) The Director-General shall be the Secretary of the National Social Security Authority.

(4) **The method of recruitment, salary and allowances and conditions of service of the Director-General shall be such as may be prescribed.**

Principal Officers of the Central Board of Social Security.

206. *(1)* **The Central Government shall appoint the following officers as the principal officers of the Central Board of Social Security, namely:—**

(a) Chief Social Security Commissioner,

(b) Social Insurance Commissioner,

(c) Medical Commissioner,

(d) Financial Commissioner,

(e) Actuary,

(f) Central Provident Fund Commissioner,

(g) Pension Commissioner,

(h) Welfare Commissioner,

(i) Agricultural Insurance Commissioner.

(2) The Chief Social Security Commissioner shall be the Chief Executive of the Central Board of Social Security.

(3) **The method of recruitment, salaries and allowances and conditions of service of the Principal Officers shall be such as may be prescribed.**

(4) **The Central Board may appoint such other officers and staff as may be necessary for administration of the social security schemes.**

(5) **The method of recruitment, salary, and allowances and conditions of service of the officers and staff appointed by the Central Board shall be such as may be specified by the Central Board in consultation with the Central Government.**

Principal Officers of the State Board of Social Security.

207. *(1)* The State Government shall appoint the following officers of the State Board of Social Security, namely—

(a) State Social Security Commissioner,

(b) Director of Social Insurance,

(c) Director of Medical Benefit,

(d) Director of Finance and Accounts,

(e) Director of Provident Fund,

(f) Director of Pension,

(g) Director of Welfare Funds,

(h) Director of Agricultural Insurance,

(i) Actuary.

(2) The State Social Security Commissioner shall be the Chief Executive of the State Board.

(3) The method of recruitment, salary and allowances and conditions of service of the Principal Officers of the State Board of Social Security shall be such as may be prescribed.

(4) The State Board of Social Security may appoint such other officers and staff as may be necessary for administration of the social security schemes.

(5) The method of recruitment, salary and allowances and conditions of service of the officers and staff appointed by the State Board of Social Security shall be such as may be specified by the appropriate Board in consultation with the State Government concerned.

Vacancies, etc., not to invalidate the proceedings of the Authority.

208. No act done or proceedings taken by the National Social Security Authority, Central Board or the State Board, as the case may be, shall be questioned on the ground

merely of the existence of any vacancy in or any defect in the constitution of these bodies.

Delegation of powers and functions.

209. The National Social Security Authority, the Central Board or the State Board may delegate to the respective chief executive, subject to such conditions and limitations as may be specified, such of its powers and functions of the social security schemes, as it may deem fit.

Principal Duties of Officers.

210. The Principal Officers of the Central and the State Boards of Social Security shall exercise such powers and discharge such duties as may be prescribed.

Regional Boards and Local Committees.

211. The Central and the State Boards of Social Security may appoint Regional Boards and Local Committees in such areas and in such manner and delegates to them such powers and functions as may be prescribed.

Regional Branch and Local Officers.

212. The Central and the State Boards of Social Security may establish Regional Branch and Local Offices where considered necessary for administration of the Social Security schemes or entrust any of their functions to any other Central, State or Local Government agencies or to tripartite Boards in such manner as may be prescribed.

Contribution.

213. *(1)* Contributions shall be made to the Social Security Fund of India or the Social Security of the State concerned at such rates as may be prescribed in the schemes by employers, and self-employed persons and the appropriate Government in such manner as may be prescribed.

(2) A percentage of the contribution made to the Social Security Fund of India and the Social Security Funds of the States, as may be prescribed, but not exceeding ten per cent., thereof shall be remitted, if considered necessary, to the National Social Security Authority of India to be maintained as a balancing fund to assist the less developed States.

Chief Labour Commissioner, Labour Commissioners and Registrars of Trade Unions.

214. In addition to the Government and other authorities prescribed in the foregoing sections, there shall be the following authorities for administration of the provisions of this Code, namely:—

(i) (a) There shall be a Chief Labour Commissioner to be appointed by the Central Government who shall be the principal adviser to the Central Government on all matters relating to labour the principal Conciliation officer in respect of matters for which the Central Government is the appropriate Government and the head of the All India Labour Service, except as otherwise provided;

(b) The Chief Labour Commissioner shall be responsible for enforcement of the labour laws and administration of the programmes framed thereunder for which the Central Government is the appropriate Government.

(ii) There shall be a Labour Commissioner in each State to be appointed by the appropriate Government who shall be the principal adviser to the appropriate Government on all matters concerning labour and the principal conciliation officers in respect of matters for which the State Government is the appropriate Government.

(iii) There shall be a Registrar of Trade Unions to be appointed by the appropriate Government whose functions shall be to register the trade union; point out the omissions and commissions in the observance of an contravention of the law relating to the registration of trade union and other matters; and deregister the trade unions in accordance with the provisions of this code.

(iv) There shall be a Director General of Employment to be appointed by the Central Government who shall be the Secretary of the National Council of Employment and the Central Board of Employment and shall carry out the decisions and orders of the National Council and the Central Board.

(v) There shall be a Director of Employment in each State to be appointed by

the appropriate Government who shall be the Secretary of the State Board of Employment and shall carry out the decisions and orders of State Board of Employment.

(vi) There shall be a Director-General of Training to be appointed by the Central Government who shall be the Secretary of the National Council of Vocational Training and Vocational Guidance and the Central Board of Vocational Training and Vocational Guidance and shall be responsible for carrying out the decisions and orders of the National Council and the Central Board.

(vii) There shall be a Director of Training in each State to be appointed by the appropriate Government who shall be the Secretary of the State Board of Vocational Training and Vocational Guidance and shall be responsible for carrying out the decisions and orders of the State Board of Vocational Training and Vocational Guidance.

(viii) The mothod of appointment and the terms and conditions of service of the authorities mentioned in clauses *(i)* to *(vii)* shall be such as may be prescribed by the appropriate Government.

Enforcement of Laws.

215. ***(1)*** **The appropriate Government may, by notification, appoint such persons as it may think fit to be Inspectors for the purpose of making Investigation as to whether the provisions of this code or the rules or regulations made thereunder are being complied with and may define the local limits within which an Inspector may make such investigation.**

(2) **The appropriate Government may, by notification, appoint one or more person to be the Chief Inspectors who shall exercise the powers of an Inspector throughout the State.**

(3) **The appropriate Government may, if considered necessary, by notification, appoint different persons as Chief Inspectors for different purposes and they may be designated in such manner as the appropriate Government deems it fit.**

(4) Every inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code. 45 of 1860

Powers of Inspectors

216. *(1)* Subject to any rules made by the appropriate Government in this behalf, an Inspector may for the purpose of ascertaining whether any of the provisions of this Act have been complied with, exercise all or any of the following powers, namely:—

(a) require an employer to furnish such information as he may consider necessary;

(b) enter and inspect, at reasonable hours, with such assistants (if any), being persons in the service of the Government or local or any public authority, or any authority created under this Act as he thinks fit, any premises or place in any factory, mine, oilfield, plantation, port, railways shop or other establishment to which this code applies for the purpose of examining any register, record or notice or the document required to be kept or exhibited under this code or the rules made thereunder, or otherwise kept or exhibited in relation to the employment of any person or the payment of dues to the employees, and require the production thereof for inspection;

(c) examine with respect to any matter relevant to any of the purpose aforesaid, the employer, his agent, servant or any other person found to be performing the functions of the employer or any person whom he finds in such premises or place and who he has reasonable cause to believe is an employee employed therein:

Provided that no person shall be compelled to answer any question or give any evidence tending to incriminate himself.

(d) make copies or take extracts from any register, record, notice or other

document as he may consider relevant, and where he has reason to believe that any offence under this Act has been committed by an employer, search and seize with such assistance as he may think fit and register, notice or other document as he may consider relevant in respect of that office;

(e) take photograph, sketch, sample, measure or record as he may consider necessary for the purpose of any examination or inquiry;

(f) hold an inquiry into the cause of any accident which he has reason to believe was the result of non-compliance with any of the provisions of the Act or the rules or regulations framed thereunder;

(g) issue show cause notice for the violation of the provision of this Act or rules or the regulations, or other provisions made thereunder for the health and safety of the employees;

(h) conduct or defend before any court any complaint or other proceedings arising under this Act or the rules or regulations framed thereunder;

(i) exercise such other powers as may be conferred upon him by the rules framed under this Act.

(2) Any person required to produce any register, 1973 record, notice or other document or to give any information by an Inspector shall be deemed to be legally bound to do so
45 of 1860 within the meaning of sections 175 and 176 of the Indian Penal Code.

2 of 1974 *(3)* The provisions of the Code of Criminal Procedure, shall so far as may be apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under section 94 of that code.

(4) It shall be the primary objective and function of the Inspector to point out omissions and commissions in the observance of or contravention of the provisions of the law, advise and guide the employers and the employees in the adherence to the law and if these measures fail, shall submit proposals to the Director of Prosecution for penal action against the offenders.

(5) If it appears to an Inspector that any place at which any work is being carried on in such condition that it is dangerous to life, safety or health of the employees he may in writing serve on the owner or on the person in charge of such place an order prohibiting any such work in the place until measures have been taken to remove the cause of the danger to his satisfaction.

(6) In case of any article or a substance found in any premises, being an article or a substance which appear to him as having caused or is likely to cause danger to the health or safety of the employees, direct it to be dismantled or subject it to any process or test (but not so as to damage or destroy it, unless the same is in the circumstances necessary, for carrying out the purposes of this Act) and take possession of any such particle or substance or a part thereof, and retain it so long as is necessary for such examination.

(7) Every employer or in his absence, his agent or any other person performing the functions of the employer or the person in charge of the place where work is being done shall afford the Inspectors all reasonable facilities for making any entry, inspection, survey, measurement, examination or enquiry under this Act.

(8) (a) Without prejudice to the generality of the foregoing provisions, an Inspector may at any time during the normal work of a factory, or other establishment after informing the employer or his representative for the time being purported to be in charge of the factory or establishment take in the manner hereinafter provided a sufficient sample or any substance used or intended to be used in the factory or establishment, such use being—

(i) in the belief of the inspector in contravention of any of the provisions of this Act, rules or regulations made thereunder, or

(ii) in the opinion of the Inspector, likely to cause bodily injury to, or injury to the health of, workers in the factory, where the Inspector takes a sample under sub-clause *(i)*, he shall, in the presence of the person informed under that sub-section unless such person wilfully absents himself, divide the sample into three portions and effectively seal and suitably mark them and shall permit such person to add his own seal and mark thereto.

(b) The person informed as aforesaid shall, if the Inspector so requires, provide the appliances for dividing, sealing and marking the sample taken under this section.

(c) The Inspector shall—

(i) forthwith give one portion of the sample to the person informed under this sub-section;

(ii) forthwith send the second portion to a Government analyst for analysis and report thereon;

(iii) retain the third portion for production to Court before which proceedings, if any, are instituted in respect of the substance.

(9) Any document purporting to be a report under the hand of any Government analyst upon any substance submitted to him for analysis and report under this section, may be used as evidence in any proceedings instituted in respect of the substance.

Power to prohibit employment.

217. *(1)* Where it appears to the Inspector that conditions in an establishment or part thereof are such that they may cause serious hazard by way of injury or death to the persons employed therein or to the general public in the vicinity he may by order in writing to the occupier of the factory, mine or other establishment, state the particulars in respect of which he considers the establishment or part thereof to be the cause of such serious hazard and prohibit employer from employing any person in the establishment or part thereof other than the minimum number of persons necessary to attend to the minimum tasks till the hazard is removed.

(2) Any order issued by the Inspector under sub-section *(1)* shall have effect for a period of three days unless extended by the prescribed authority by a subsequent order.

(3) Any person aggrieved by an order of the Inspector under sub-section *(1)* and under sub-section *(2)* shall have the right to appeal to the Labour Court.

(4) Any person whose employment has been affected by an order issued under sub-section *(1)* or *(2)* shall be entitled to wages and other benefits and it shall be the duty of the employer to provide alternative employment to him wherever possible and in such manner as may be prescribed.

(5) The provisions of sub-section *(4)* shall be without prejudice to the rights of the parties under the provisions of this Act relating to "Employment".

Restrictions on disclosure of information.

218. *(1)* All copies of an extract from registers or other records in relation to any work and all other information required by the inspector or by any one assisting him, under this Act or the rules shall be regarded as confidential and shall not be disclosed to any person or authority unless such disclosure is for the purpose of any action or proceeding under this Act or the rules or under any other law, unless the Inspector considers it such disclosure necessary to ensure the health, safety or welfare of any employee.

(2) The Inspector shall not disclose the source of any complaint brought to his notice a defect or breach of any legal provision and if any visit or inspection is to be made in connection with such a complaint, he shall give no intimation to the employer that the visit is made in consequence of receipt of such complaint:

Provided that the restrictions imposed under this sub-section shall not apply to any case where the complainant himself has expressed his willingness to have the source of complaint disclosed.

(3) If the Inspector or any person referred to in clause *(2)* discloses, contrary to the provision of this Section any information as aforesaid, he shall be punishable with imprisonment for a term which may extend upto one year or with fine or with both.

(4) Nothing in clause *(1)* shall apply to the disclosure of any such information if so required, to—

(i) any court;

(ii) a committee or court of inquiry constituted or appointed under this Act;

(iii) A superior officer or such other officer, authority or organisation as may be specified in this behalf by the appropriate Government.

(5) No court shall proceed to the trail of any offence under this section except with the previous sanction of the appropriate Government.

Tripartite Committee.

219. *(1)* The appropriate Government shall, by notification, constitute one or more tripartite committees consisting of employers and employees who shall be equal in number and independent persons not exceeding one-third of its total number of members; one of such independent persons shall be appointed the Chairman of the Committee.

(2) The method of appointment of representatives of the employers and employees to the Committee the geographical and functional jurisdiction of each Committeee shall be such as may be prescribed by the appropriate Government.

(3) The functions of the Committee shall be—

(a) to survey as to whether there is any offence of which cognizance ought to be taken under this Act;

(b) to keep a watch over offences of which cognizance has been taken under this Act;

(c) to receive complaints against contraventions of the provisions of this Act;

(d) to render such advise as necessary for the proper implementation of the provisions of the Act or of the rules or regulations made thereunder.

Offences and Penalties.

220. *(1)* Save as otherwise expressly provided in this Act, any person who contravenes any of the provisions of this Code or any rules made thereunder shall be punishable for the first offence with fine which may extend to rupees one thousand and for a second or any subsequent offence with imprisonment for a term which shall not be less than one month.

(2) Any person who fails to carry out the orders of the Labour Relations Commission, Labour Court or any other Authority established under this Act, shall be punishable with imprisonment for a term which shall not be less than six months or fine upto rupees five thousand or with both.

(3) An employer who fails to pay to an employee the wages or other amounts due to him and pays less than what is due shall pay to the employee concerned such compensation as the Labour Court or other competent authority may fix but not exceeding ten times the amount due.

(4) Any employer who defaults in making his contribution to the Social Security Fund of India or of the State concerned for more than three months shall be punishable with imprisonment which shall not be less than six months and may be liable to a fine of five thousand repees.

(5) Any employer who having deducted the contribution, to the Social Security Fund of India or of the State concerned, of the employees from their wages, default in payment of the same for more than one month shall be punishable with imprisonment which shall not be less than one year and may extend to three years and a fine of ten thousand rupees.

(6) An employer who fails to pay to an employee the wages or other amounts due to him, or pays less than what is due, or defaults in making his contribution to the Social Security Fund or in paying to the Social Security Fund the contributions of the employee deducted from their wages continuously for more than three months inspite of the offence being pointed out to him by the Inspector, the trade union or the employee concerned, shall be punishable with imprisonment which shall not be less than six months and fine of five thousand rupees for every month in which he commits the offence.

(7) An employer who fails to provide adequate protection to his employees against the risks to their health and safety as prescribed and if it results in the death of one or more employees, he shall be punishable with imprisonment for not less than one year and he may also be required to pay such compensation as the prescribed authority may determine in addition to the social security benefit the survivors of the deceased employees may be entitled to receive.

(8) Whoever, for the purpose of avoiding any payment to be made by himself under this Act or of enabling any other person to avoid such payment knowingly makes or causes to be made any false statement or false representation shall be punishable with imprisonment for a term which may extend upto one year or with fine of rupees five thousand or with both.

(9) Any person who obstructs an Inspector or other official appointed under this Act in the discharge of his duties shall be punishable with imprisonment which may extend upto six months or with fine which may extend upto rupees one thousand or with both.

(10) Whoever having been convicted by a court of an offence punishable under this Act commits the same offence shall be subject for every such subsequent offence to imprisonment for a term which may extend to five years and a fine of rupees twenty-five thousand.

Director of Labour prosecution and Labour prosecutors.

221. *(1)* The appropriate Government shall appoint a Director of Labour prosecution and such number of Labour prosecutors as may be necessary in consultation with the appropriate Labour Relations Commissions.

(2) Any one including trade union or a voluntary organisation who has complaint regarding the breach of the labour law or any action of an employer which is punishable under this Act may apply to the Director of Labour Prosecution for prosecuting the offenders.

(3) The Director of Labour prosecution, if he is satisfied after preliminary enquiry that an offence punishable under this Act has been committed, may and after giving an opportunity to the offender to rectify his error either authorise the complainant to prosecute the offender or initiate the prosecution proceedings himself.

(4) No court shall take congnisance of any offence punishable under this Act except, on a report in writing of the facts constituting such offence made with the previous sanction of the Director of Labour Prosecution or any other officer authorised by him in this behalf, by an Inspector, a registered trade union or a registered voluntary organisation.

(5) The Director of Prosecution shall have the power to charge a person who has contravened the provision of this Act or the rules or regulations made under this Act subject to such limits as may be prescribed.

Jurisdiction of Labour Courts.

222. No court other than a Labour Court or a Magistrate of First Class shall try any offence under this Act.

Settlement of claims.

223. *(1)* Where any money is due to an employee from an employer under a settlement or an award or under the provisions of this Act the employee himself or any other person authorised by him in writing in this behalf, or in the case of the death of the employee his assignee or heirs may without prejudice to any other mode of recovery make an application to the Labour Court and if the Labour Court is satisfied that money is so due it shall issue a certificate for that amount to the Collector who shall proceed to recover the same in the same manner as an arrear of land revenue.

(2) Every such application shall be made within two years from the date on which

the money becomes due to the employee from the employer, so however an application may be entertained after the expiry of the said period of two years if the Labour Court is satisfied that the application had sufficient cause for not making the application.

(3) Where any employee is entitled to receive from the employer any money or benefits which is capable of being computed in terms of money and if any question arises as to the amount of money due or as to the amount at which such benefit should be computed then the quantum shall first be decided by the Labour Court before passing the order on the application of the employee.

(4) For the purposes of computing the money value of a benefit the Labour Court may, if it so thinks fit, appoint a commissioner who shall after taking such evidence as may be necessary submit a report to the Labour Court and the Labour Court shall determine the amount after considering the report of the commissioner and other circumstances of the case.

(5) The final order on every application for recovery of dues received from an employee shall be issued not later than six months from the date of receipt of the application.

(6) Where more than one employee employed under the same employer are entitled to receive from him any money or any benefit capable of being computed in terms of money then, subject to such rules as may made in this behalf, a single application for the recovery of the amount due may be made on behalf of or in respect of such employee.

(7) The appropriate Government may in consultation with the appropriate Labour Relations Commission, by notification, designate any judicial or quasijudicial authority as the Labour Court for purposes of receiving and disposing of applications for recovery of moneys due to the employees under the provisions of this Act relating to minimum wage.

(8) Where there has been reasonable delay in settlement of a claim of an employee against his employer the Court may award payment of compound interest on the amount due from the date it became due for payment till the date of actual payment at such rate as the appropriate Government may, be notification, specify.

(9) The burden of proof of having paid the dues at the proper time and in full to the employee shall be on the employer concerned.

Explanation:

In this section, the term "employee" includes a person who is entitled to a payment under a settlement or award or under any of the provisions of this Act but who is no longer in employment.

CHAPTER IX

MISCELLANEOUS

Registration of employers and employees.

224. *(1)* Every employer employing one or more persons shall be registered in such office designated as Registration Officer for the purpose as may be prescribed.

(2) The appropriate Government shall, by notification, appoint such persons as it thinks fit to be Registering Officers for the purpose of this Act and define the limits within which each registering officer shall exercise the powers conferred on him.

(3) (a) Every employer shall, before taking any person into employment, require such person to furnish and such person shall on demand furnish to him correct particulars concerning himself, the members of his family and other dependents in the prescribed form and all such particulars of each employee shall be forwarded to the registration office.

(b) Subsequent change in the composition of the family of the employee and his dependents shall be intimated to the employer and the same shall also be forwarded to the registration office.

(4) The registration office shall allot a number to each employer and direct the employer to issue an identity card to each of his employees.

(5) Every self-employed person and other person seeking to avail of the protection of this Act shall also apply for registration to the registration office and on receipt of the

application he shall be registered and allotted a number and every such person shall also be issued an identity card.

Power to remove difficulties.

225. *(1)* If any difficulty arises in giving effect to the provisions of this Act the appropriate Government may, by an order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removal of the difficulty.

(2) Every order made under this section shall as soon as may be after it is made, be laid before Parliament or Legislature, as the case may be.

(3) This power may be exercised for a period not exceeding five years from the date of commencement of this Act.

Delegation of powers.

226. The appropriate Government may, by notification, direct that any power exercisable by it under this Act or the rules or regulations made thereunder shall in relations to such matters and subject to such conditions, if any, as may be specified in the direction be exercisable also—

(a) where the appropriate Government is the Central Government, by such officer or authority subordinate to the Central Government or by State Government or by such officer or authority subordinate to the State Government, as may be specified in the notification; and

(b) where the appropriate Government is the State Government by such officer or authority subordinate to the State Government as may be specified in the notification.

Protection of action taken in good faith.

227. No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Power to make rules.

228. *(1)* The appropriate Government may, by notification, make rules for carrying out the purposes of this Act.

(2) The Central Government may, by notification within a period of two years from the date of commencement of this Act make model rules for carrying out the purposes of this Act and those rules shall be in force until the appropriate Government makes its own rules under this section.

(3) All rules made under this Act shall be published in the Official Gazette and shall be subject to the condition of previous publication.

(4) Every rule or regulation made by the Central Government under this section shall be laid, as soon as may be after it is made, before each House of the Parliament while it is in session for a total period of thirty days which may be comprised in one or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid both Houses agree in making any modification in the rule or regulation both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Power to call for information.

229. The appropriate Government or any authority specified by it in this behalf may require any person concerned with the Act to furnish for the purpose of this Act such statistical and other information as it may think fit.

Power to exempt in special cases.

230. The appropriate Government may if it is of opinion that it is necessary or expedient so to do, direct, by notification that subject to such conditions and restrictions, if any, and for such period or periods, as may be specified in the notification, all or any of the provisions of this Act or the rules made thereunder shall not apply to any establishment or class of establishments, employee or class of employers or employee or class of employees.

Registered and other records to be maintained.

231. Every employer shall maintain such registers, records and other documents in such form and in such manner and for such period as may be prescribed.

Annual Report and Returns.

232. *(1)* The appropriate Government shall, as soon as may be after the end of each financial year cause to be published in the official Gazette, a report giving an account of its activities in respect of matters concerning labour including its programmes during the financial year.

(2) Every employer shall submit to the appropriate Government or any authority designated for the purpose such returns occasional or periodical as may, in its opinion, be required for the purposes of this Act as may be prescribed.

Notice.

233. *(1)* Notice showing the following particulars shall be displayed in English, Hindi and in the local language understood by the majority of the employees in conspicuous places of the establishment and the worksite by the employer, namely:—

Rates of wages, Hours of work, Wage periods, Dates of payments of wages, Names and addresses of the Inspectors having Jurisdiction, Date of payment of unpaid wages, and such other particulars as may be prescribed.

(2) The notice shall be correctly maintained in clean and legible condition.

Supply of abstracts of the Act and the Rules.

234. Every employee shall be provided with a copy of the abstract of this Act and the rules framed thereunder in English and Hindi and in the language spoken by the majority of the employees in such form as may be prescribed.

Legal Aid.

235. *(1)* On receipt of a written application from an employee or in the event of his death from the next of his kin for providing legal aid in relation to any proceeding before an Authority under this Act in which the employee or his legal heir is a party, the specified authority concerned, if he is satisfied, shall engage an advocate to conduct the relevant proceedings on behalf of the employee or his legal heir as the case may be, and meet all legal expenses in this regard.

(2) Where a labour dispute is referred to arbitration, or adjudication under this Act the entire cost of such arbitration, or adjudication including the fee of the advocate engaged by the two parties from a panel maintained by the specified authority shall be borne by the establishment concerned.

Contracting out.

236. Any contract or agreement whereby an employee either relinquishes or reduces his rights to wages or other benefits accruing to him under this Act shall be null and void.

Effects of Laws and agreement in consistent with the act.

237. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service:

Provided that where under any such award, agreement contract service or otherwise an employer is entitled to benefits in respect of any matter which are more favourable to him than those to which he would be entitled under this Act the employee shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that he receives benefits in respect of other matters under this Act:

Provided further that nothing in this Act shall be construed as precluding any employee from entering into an agreement with an employer for granting him rights and privileges in respect of any matter which are more favourable to him than those to which he would be entitled under this Act.

Protection from attachment.

238. No amount payable under this Act to an employee shall be liable to attachment in execution of any decree or order of any civil revenue or criminal court.

Collection of statistics.

239. *(1)* The appropriate Government shall appoint a Statistics Authority for the purpose of collecting statistics on matters concerning labour.

(2) The Statistics Authority shall collect, compile and publish timely basic labour statistics which shall progressively be expanded to cover the following subjects, namely:—

(a) economically active population, employment, where relevant unemployment, and where possible visible under-employment;

(b) structure and distribution of the economically active population, for

detailed analysis and to serve as benchmark data;

(c) average earnings and hours of work (hours actually worked or hours paid for) and, where appropriate, time rates of wages and normal hours of work;

(d) wage structure and distribution;

(e) labour cost;

(f) consumer price indices;

(g) household expenditure or, where appropriate, family expenditure and, where possible, household income or, where appropriate, family income;

(h) occupational injuries and, as far as possible, occupational diseases;

(i) industrial disputes; and

(j) productivity.

(3) In designing or revising the concepts, definitions and methodology used in the collection, compilation and publication of the statistics required under this Act, the Statistics Authority shall take into consideration the latest standards and guidelines established under the auspices of the International Labour Organisation as well as the Central Statistical Organisation.

(4) Without prejudice to the generality of the provision in sub-section *(3)*, the statistics collected under this Act shall conform to the following principles, namely:

(a) current statistics of the economically active population employment, unemployment and visible underemployment shall be compiled in such a way as to be representative of the country, or, as the case may be, the State as a whole;

(b) statistics of the structure and distribution of the economically active population shall be compiled in such a way as to be representative of the country, or as the case may be, the State as a whole for detailed analysis and to serve as a benchmark data;

(c) current statistics of average earning and hours of work (hours actually worked or paid for) shall be compiled covering all important categories of employees and all important branches of economic activity, and in such a way as to be representative of the country, or, as the case may be, the State as a whole;

(d) statistics of time rates of wages and normal hours of work shall be compiled covering important occupations or groups of occupations in important branches of economic activity and in such a way as to be representative of the country, or, as the case may be, the State, as a whole;

(e) statistics of wage structure and distribution shall be compiled covering employees in important branches of economic activity;

(f) statistics of labour cost shall be compiled covering important branches of economic activity consistent with the date of employment and hours of work of the same scope;

(g) consumer price indices shall be computed in order to measure variations over time in the prices of items representative of the consumption patterns of significant population groups or of the total population;

(h) statistics of household expenditure, or, where appropriate family expenditure, and where possible household income or where appropriate family income shall be compiled covering all types and sizes of private households or families, and in such a way as to be representative of the country, or as the case may be, the State as a whole;

(i) statistics of occupational injuries and occupational diseases shall be compiled

in such a way as to be representative of the country or, as the case may be, the State as a whole covering all branches of economic activity;

(j) statistics of industrial disputes shall be compiled in such a way as to be representative of the country or, as the case may be, the State as a whole covering all branches of economic activity.

(5) The Statistics authority may serve or cause to be served on the owner of an industrial or commercial concern or any other person a notice requiring him to furnish such information or returns as may be prescribed in respect of any matter in respect of which statistics are to be collected.

(6) The form in which, the persons to whom or the authorities to which such information or returns should be furnished, the particulars which they should contain, and the intervals within which such information or returns should be furnished shall be such as may be prescribed.

(7) The statistical authority, or any person authorised by him in writing in this behalf shall, for the purposes of the collection of any relevant record or document in the possession of any person required to furnish any information or return under this Act may enter at any reasonable time any premises where he believes such record or document to be and may inspect and take copies of relevant records or documents or ask any question necessary for obtaining any information required to be furnished under this Act.

(8) Nothing in this Act shall impose an obligation to publish or reveal data which could result in the disclosure in anyway information relating to an individual statistical unit such as a person, a household, an establishment or an enterprise.

(9) (a) No information, no individual return and no part of an individual return with respect to any particular industrial or commercial concern, given for the purposes of this Act shall, without the previous consent in writing of the owner for the time being of the industrial or commercial concern in relation to which the information or return was given or of made or of his authorised agent be published in such manner as would enable any particulars to be identified as referring to a particular concern.

(b) Except for the purposes of prosecution under this Act or under the Indian Penal Code, no person who is not engaged in the collection of statistics under this Act shall be permitted to see any information or individual return.

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(10) If any person—

(a) required to furnish any information or return—

(i) wilfully refuses or without lawful excuse neglects to furnish such information or return as may be required under this Act; or

(ii) wilfully furnishes or causes to be furnished any information or return which he knows to be false; or

(iii) refuses to answer or wilfully gives a false answer to any question necessary for obtaining any information required to be furnished under this Act; or

(b) impedes the right of access to relevant records or documents or the right of entry conferred by sub-section *(7)*,

he shall for each offence be punishable with fine which may extend to five hundred rupees or one month imprisonment or with both.

Penalty for improper disclosure of information or returns.

240. If any person engaged in connection with the collection of statistics under this Act wilfully discloses any information or the contents of any return given or made under this Act otherwise than in the execution of his duties or for the purposes of the prosecution of an offence under this Act or under the Indian Penal Code, he shall be punishable for such offence with imprisonment for a term which may extend to six months or with fine

which may extend to one thousand rupees or with both.

Offences by companies

241 *(1)* If the person committing an offence under this Act is a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section *(1)*, where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall also be liable to be proceeded against and punished accordingly.

Explanation

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director" in relation to a firm, means a partner in the firm.

CHAPTER X

SPECIAL LABOUR LAWS

Bonded, Rural and Unorganised Labour

A Bonded Labour

Definitions

242. In this chapter, unless the context otherwise requires,—

(a) "advance" means an advance whether in cash or in kind, or partly in cash or partly in kind, made by one person (hereinafter referred to as the creditor) to another person (hereinafter referred to as the debtor);

(b) "agreement" means an agreement (whether written or oral or partly written and partly oral) between a debtor and creditor and includes an agreement providing for forced labour, the existence of which is presumed under any social custom prevailing in the concerned locality.

Explanation

The existence of an agreement between the debtor and creditor is ordinarily presumed, under the social custom, in return for the following forms of forced labour, namely:

Adiyamar, Baramasia, Basahya, Bethu, Bhagela, Cherumar, Garru-Galu Hali, Hari, Harwail, Holya, Jana, Jeetha, Kamiya, Khundit-Mundit, Kuthia, Lakhari, Munjhi, Mat, Munish system, Nit-Majoor, Paleru, Padiyal, Pannayilal, Sagri, Sanji, Sanjawat, Sewak, Sewakia, Seri, Vetti;

(c) "Agriculture" means and includes the following activities namely:—

(i) any form of farming including cultivation and tillage of soil;

(ii) dairy farming;

(iii) production, cultivation, growing and harvesting of any agricultural or horticultural commodity;

(iv) raising of livestock, bees or poultry;

(v) piggery;

(vi) pisciculture,

(vii) forestry and timber-operations;

(viii) collections of tendu leaves or other forest products;

(ix) any other work performed incidental to or in conjuction with the

foregoing activities by a blacksmith, carpenter or other person;

(x) preparation for, delivery to storage or to market, carriage or transportation to storage or to market of the produce of the foregoing activities;

(d) "ascendent" or "descendent" in relation to a person belonging to a matriarchal society means the person who corresponds to such expression in accordance with the law of succession in force in such society;

(e) "bonded debt" means an advance obtained or presumed to have been obtained, by a bonded labourer under or in pursuance of, the bonded labour system;

(f) "bonded labour" means any labour or service rendered under the bonded labour system;

(g) "bonded labourer" means a labourer who incurs, or has, or is presumed to have, incurred a bonded debt;

(h) "bonded labour system" means the system of forced, or partly forced, labour under which a debtor enters, or has, or is presumed to have, entered, into an agreement with the creditor to the effect that,

(i) in consideration of an advance obtained by him or by any of his lineal ascendents or descendents (whether or not such advance in evidenced by any document) and in consideration of the interest, if any, due on such advance, or

(ii) subject to the provisions of sub-clauses *(i)* to *(iv)* of clause *(k)* in pursuance of any customary or social obligation, or

(iii) in pursuance of an obligation devolving on him by succession, or

(iv) for any economic consideration received by him or by any of his lineal ascendants or descendants, or

(v) by reason of his birth in any particular caste or community.

(1) he would render, by himself or through any member of his family, or any person dependent on him labour or service to the creditor, or for the benefit of the creditor, for a specified period or for an unspecified period, either with or without wages, or for nominal wages, or

(2) forfeit freedom of employment or other means of livelihood for a specified period or for an unspecified period,

(3) forfeit the rights to move freely throughout the territory of India, or

(4) forfeit the rights to appropriate or sell at market value any of his property or product of his labour or the labour of a member of his family or any person dependent on him, and includes the system of forced or partly forced labour under which a surety for a debtor enters or has or is presumed to have entered, into an agreement with the creditor to the effect that in the event of the failure of the debtor to repay the debt, he would render the bonded labour on behalf of the debtor;

Explanation

For the removal of doubts, it is hereby declared that any system of forced or partly forced labour under which any employee as defined under any law for the time being in force or under any agreement or contact is required to render labour or service in circumstances of the nature mentioned in sub-item *(1)* of this clause or is subjected to all or any of the disabilities referred to in sub-item *(2)* to *(4)* is "bonded labour system" within the meaning of this section.

(i) "compulsory labour" means forced labour;

(j) "family" in relation to a person, includes the ascendant and descendant of such person;

(k) "forced labour" means any work or service which is extracted from any person under the menace of any penalty or for which the said person has not offered himself voluntarily but shall not include—

(i) any work or service exacted by virtue of compulsory military service laws if any for work of a purely military character;

(ii) any work or service which forms part of the normal civil obligation of the citizens.

Explanation

Minor community service of a kind which, being performed by the members of the community in the direct interest of the said community, can be considered as normal civil obligations incumbent upon the members of the community, provided that the members of the community or their direct representatives shall have the right to be consulted in regard to the need for such services;

(iii) any work or service exacted from any person as a consequence of a conviction in a court of law, and such work or service is carried out under the supervision and control of a competent authority;

(iv) any work or service exacted in cases of emergency, such as threat of war, emergency declared under the Constitution, a calamity or threatened calamity like fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insects, vegetable pests, or any other circumstances which endangers the existence or the well-being of the whole or part of the population;

(l) "land owner" means,—

(i) in relation to a land under personal cultivation the owner of such land;

(ii) in relation to a land held by a cultivating tenant, such cultivating tenant;

(iii) in any other case, the person in actual possession of land;

(m) "nominal wages", in relation to any labour, means a wage which is less than,

(i) the minimum wages fixed by the Government, in relation to the same or similar labour, under any law for the time being in force;

(ii) where no such minimum wage has been fixed in relation to any form of labour, the wages that are normally paid, for the same or similar labour, to the labourers working in the same locality;

(iii) "rural labour" means a person who is employed to do any work in agriculture or any related activity for wages, hire or reward and includes—

(1) one who owns land but works for another to supplement his income;

(2) one who works on contract for any agricultural or allied activity;

(3) one who is styled as a permanent servant attached to work or casual worker engaged in agriculture or allied activity;

(n) "rural employer" means an individual or an association of individuals, incorporated or not engaged in an agricultural activity and employing one or more agricultural labour and includes a land owner, a contractor or any other intermediate employer.

Over-riding effect.

243. The provisions of this part shall have effect not withstanding anything in consistent therewith contained in any enactment other than this Chapter, or in any instrument having effect by virtue of any enactment other than this Chapter.

Abolition of bonded labour system.

244. *(1)* With effect from the 31st day of December, 1996, the bonded labour system shall stand abolished and every bonded labourer shall, on such abolition, stand freed and discharged from any obligation to render any bonded labour.

(2) After the abolition, no person shall—

(a) make any advance under or in pursuance of, the bonded labour system;

(b) compel any person to render any bonded labour or any other form of forced labour.

Agreement, custom, etc., be void.

245. On the abolition of the bonded labour system (hereinafter in this chapter referred to as "abolition" any custom or tradition or any contract, agreement or other instrument (whether entered into or executed before or after abolition) by virtue of which any person, or any member of the family or dependent of such person, is required to do any work or render any service as a bonded labourer shall be void and inoperative.

Liability to repay bonded debt to stand extinguished.

246. *(1)* On the abolition every obligation of a bonded labourer to repay any bonded debt, or such part of any bonded debt as remains unsatisfied immediately before such abolition, shall be deemed to have been extinguished.

(2) After the abolition, no suit or other proceeding shall lie in any civil court or before any other authority for the recovery of any bonded debt or any part thereof.

(3) Every decree or order for the recovery of bonded debt, passed before the abolition and not fully satisfied before the abolition, shall be deemed, on such abolition, to have been fully satisfied.

(4) Every attachment made before the abolition for the recovery of any bonded debt, shall, on such abolition stand vacated; and, where in pursuance of such attachment, any movable property of the bonded labourer was seized and removed from his custody and kept in the custody of any court or other authority pending sale thereof, such movable property shall be restored, as soon as may be practicable after the abolition, to the possession of the bonded labourer.

(5) Where, before the abolition, possession of any property belonging to a bonded labourer or a member of his family or other dependent was forcibly taken over by any creditor for the recovery of any bonded debt, such property shall be restored, as soon as may be practicable after the abolition, to the possession of the person from who it was seized.

(6) If restoration of the possession of any property referred to in sub-section *(4)* or sub-section *(5)* is not made within thirty days from the abolition, the aggrieved person may, within such time as may be prescribed, apply to the prescribed authority for the restoration of the possession of such property and the prescribed authority may, after giving the creditor a reasonable opportunity of being heard, direct the creditor to restore to the applicant the possession of the concerned property within such time as may be specified in the order.

(7) An order made by any prescribed authority, under Sub-section *(6)* shall be deemed to be an order made by a civil court and may be executed by the court of the lowest pecuniary jurisdiction within the local limits of whose jurisdiction of the creditor voluntarily resides or carries on business or personally works for gain.

(8) For the avoidance of doubts, it is hereby declared that, where any attached property was sold before the commencement of this Act in execution of a decree or order for the recovery of a bonded debt, such sale shall not be affected by any provision or the provisions of this chapter:

Provided that the bonded labourer, or an agent authorised by him in this behalf, may at any time within five years from such commencement apply to have the sale set aside on this depositing in court for payment to the decree holder, the amount specified in the proclamation of sale, for the recovery of which the sale was ordered, less any amount, as well as means of profits, which may since the date of such proclamation of sale, have been received by the decree-holder.

(9) Where any suit or proceeding, for the enforcement of any obligation under the bonded labour system including a suit or proceeding for the recovery of any advance made to a bonded labourer, is pending at the time of abolition, such suit or other proceeding shall, on the abolition stand dismissed.

(10) On the abolition, every bonded labour who has been detained in civil prison, whether before or after judgement, shall be released from detention forthwith.

Property of bonded labourer to be freed from mortgage, etc.

247. *(1)* All property vested in a bonded labourer which was, immediately before the abolition under any mortgage, charge, lien or other encumbrances in connection with any bonded debt shall, in so far as it is relatable to the bonded debt, stand freed and discharged from such mortgage, charge, lien or encumbrance, and where any such property was, immediately before the abolition in the possession of the mortgage or the holder of the charge, lien or encumbrance, such property shall (except where it was subject to any other charge), on such abolition be restored to the possession of the bonded labourer.

(2) If any delay is made in restoring any property referred to in sub-section *(1)* to the possession of the bonded labourer, such labourer shall be entitled, on and from the date of abolition to recover from the mortgagee or holders of the lien, charge or encumbrance, such profits as may be determined by the civil court of the lowest pecuniary jurisdiction within the local limits of whose jurisdiction such property is situated.

Freed bonded labourer not to be evicted from homestead, etc.

248. *(1)* No person who has been freed and discharged under this chapter from any obligation to render any bonded labour, shall be evicted from any homestead or other residential premises which he was occupying immediately before the abolition as part of the consideration for the bonded labour.

(2) If, after the abolition, any such person is evicted by the creditor from any homestead or other residential premises, referred to in sub-section *(1)*, the Executive Magistrate in charge of the Sub-Division within which such homestead or residential premises is situated shall, as early as practicable, restore the bonded labourer to the possession of such homestead or other residential premises.

Creditor not to accept payment against extinguished debt.

249. *(1)* No creditor shall accept any payment against any bonded debt which has been extinguished or deemed to have been extinguished or fully satisfied by virtue of the provisions of this chapter.

(2) Whoever contravenes the provisions of sub-section *(1)* shall be punishable with imprisonment for a term which may extend to three years and also with fine.

(3) The court, convicting any person under sub-section *(2)* may, in addition to the penalties which may be imposed under that sub-section, direct the person to deposit, in court, the amount accepted in contravention of the provisions of sub-section *(1)*, within such period as may be specified in the order for being refunded to the bonded labourer.

Authorities who may be specified for implementing the provisions of this chapter.

250. The State Government may confer such powers and impose such duties on a District Magistrate as may be necessary to ensure that the provisions of this Chapter are properly carried out and the District Magistrate may specify the officer, subordinate to him, who shall exercise all or any of the powers, and perform all or any of the duties, so conferred or imposed and the local limits whithin which such powers or duties shall be carried out by the officer so specified.

Duty of District Magistrate and other officers to ensure credit.

251. The District Magistrate authorised by the State Government under section 250 and the officer specified by the District Magistrate under that section shall, as far as practicable, try to promote the welfare of the freed bonded labourer by securing and protecting the economic interests of such bonded labourer so that he may not have any occasion or reason to contract any further bonded debt.

Duty of District Magistrate and officers authorised by him.

252. If shall be the duty of every District Magistrate and every officer specified by him under Section 250 to inquire whether, after the abolition, any bonded labour system or any other form of forced labour is being enforced by, or on behalf of, any person resident within the local limits of his jurisdiction and if, as a result of such inquiry, any person is found to be enforcing the bonded labour system or any other system of forced labour, he shall forthwith take such action as may be necessary to eradicate the enforcement of such forced labour.

Vigilance Committees.

253. *(1)* Every State Government shall, by notification constitute such number of Vigilance Committees in each district and each Sub-Division as it may think fit.

(2) Each Vigilance Committee, constituted for a district, shall consist of the following members, namely—

(a) the District Magistrate, or a person nominated by him, who shall be the Chairperson;

(b) three persons belonging to the Scheduled Castes or Scheduled Tribes and residing in the District to be nominated by the District Magistrate.

(c) two social workers, resident in the district, to be nominated by the District Magistrate;

(d) not more than three persons to represent the official or non-official agencies in the district connected with rural development, to be nominated by the State Government;

(e) one person to represent the financial and credit institutions in the district, to be nominated by the District Magistrate.

(3) Each Vigilance Committee, constituted for a Sub-Division, shall consist of the following members, namely;

(a) the Sub-Divisional Magistrate, or a person nominated by him, who shall be the chairperson;

(b) three persons belonging to the Scheduled Castes or Scheduled Tribes and residing in the Sub-Division, to be nominated by the Sub-Divisional Magistrate;

(c) two social workers, resident in the Sub-Division to be nominated by the Sub-Divisional Magistrate;

(d) not more than three persons to represent the official or non-official agencies in the Sub-Division connected with rural Development to be nominated by the District Magistrate;

(e) one person to represent the financial and credit institutions in the Sub-Division, to be nominated by the Sub-Divisional Magistrate;

(f) One officer specified under Section 252 and functioning in the Sub-Division.

(4) Each Vigilance Committee shall regulate its own procedure and secretarial assistance, as may be necessary, shall be provided by—

(a) the District Magistrate, in the case of a Vigilance Committee constituted for the Sub-Division.

(5) No proceeding of a Vigilance Committee shall be invalid merely by reason of any defect in the constitution, or in the proceedings, of the Vigilance Committee.

254. The functions of each Vigilance Committee shall be:

Functions of Vigilance Committees.

(a) to advise the District Magistrate or any officer authorised by him as to the efforts made, and action taken, to ensure that the provisions of this chapter or of any rule made thereunder are properly implemented;

(b) to provide for the economic and social rehabilitation of the freed bonded labourers;

(c) to co-ordinate the functions of rural banks and co-operative societies with a view to canalising adequate credit to the freed bonded labourer;

(d) to keep an eye on the number of offences of which cognizance has been taken under this chapter;

(e) to make a survey as to whether there is any offence of which cognizance ought to be taken under this chapter;

(f) to defend any suit instituted against a freed bonded labourer or a member of his family or any other person defendant on him for the recovery of the whole or part of any bonded debt or any other debt which is claimed by such person to be bonded debt.

Burden of Proof.

255. Whenever any debt is claimed by a bonded labourer, or a Vigilance Committee, to be a bonded debt, the burden of proof that such debt is not a bonded debt shall lie on the creditor.

Punishment for enforcement of bonded labour.

256. Whoever, after the abolition, compels any person to render any bonded labour shall be punishable with imprisonment for a term which may extend to three years and also with fine which may extend to two thousand rupees.

Punishment for advancement of bonded debt.

257. Whoever advances, after the abolition, any bonded debt shall be punishable with imprisonment for a term which may extend to three years and also with fine which may extend to two thousand rupees.

Punishment for extractment of bonded labour under the bonded labour system.

258. Whoever enforces after the abolition any customs, tradition, contract, agreement or other instrument, by virtue of which any person or any member of the family of such person or any dependent of such person is required to render any service under the bonded labour system, shall be punishable with imprisonment for a term which may extend to three years and also with fine which may extend to two thousand rupees; and out of the fine, if recovered, payment shall be made to the bonded labourer at the rate of rupees five for each day for which the bonded labour was extracted from him.

Punishment for omission or failure to restore possession of property to bonded labourers.

259. Whoever, being required by the provisions of this Chapter to restore any property to the possession of any bonded labourer, omits or fails to do so, within a period of thirty days from the abolition shall be punishable with imprisonment for a term which may extended to one year, or with fine which may extend to one thousand rupees, or with both; and out of the fine, if recovered, payment shall be made to the bonded labourer at the rate of rupees five for each day during which possession of the property was not restored to him.

Abetment to be an offence.

260. Whoever abets any offence punishable under this chapter shall, whether or not the offence abetted is committed, be punishable with the same punishment as is provided for the offence which has been abetted.

Explanation

For the purpose of this section, ""abetment" has the same meaning assigned to it in the Indian Penal Code. 45 of 1860.

Offences to be tried by Executive Magistrates.

261. *(1)* The State Government may confer, on an Executive Magistrate, the powers of a Judicial Magistrate of the First Class or of the Second Class for the trial of offences under this chapter; and, on such conferment of powers, the Executive Magistrate on whom the powers are so conferred, shall be deemed, for the purposes of the Act of Criminal Procedure, 1973 to be a Judicial Magistrate of the First Class, or of the Second class, as the case may be. 2 of 1974.

(2) An offence under this part may be tried summarily by a Magistrate.

Cognizance of offences.

262. Every offence under this chapter relating to bonded labour shall be cognizable and bailable.

Jurisdiction of civil courts barred.

263. No civil court shall have jurisdiction in respect of any matter to which any provisions of this chapter applies and no injunction shall be granted by any civil court in respect of anything which is done or intended to be done by or under this chapter.

Rules.

264. The Central Government may, by notification make rules for carrying out the provisions of this Part and in particular, and without prejudice to the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the authority to which application for the restoration of possession of property

referred to in sub-section *(4)* of sub-section *(5)*, of section 246 is to be submitted in pursuance of sub-section *(6)* of that section;

(b) the time within which application for restoration of possession of property is to be made, under sub-section *(6)* of section 246 to the prescribed authority;

(c) steps to be taken by Vigilance Committees under clause *(a)* of sub-section *(1)* of section 254 to ensure the implementation of the provisions of this part or of any rule made thereunder;

(d) any other matter which is required to be, or may be, prescribed.

B. National Authority and Boards etc.

National Authority for Bonded, Rural and Unorganised Labour.

265. *(1)* **There shall be constituted by notification, a body to be known as the National Authority for Bonded, Rural and Unorganised Labour (hereafter in this chapter referred to as National Authority).**

(2) The National Authority shall be a body corporate and shall consist of a chairperson, a member secretary and other members not exceeding thirty.

(3) The chairperson shall be appointed by the President in consultation with the Chief Justice of India.

(4) The chairperson shall be a sitting or retired Judge of the Supreme Court or a person qualified to be appointed as a judge of the Supreme Court.

(5) The other members shall comprise representatives of Central and State Governments, representatives of the Boards established under section 266 organisations of employers, employees and other persons who have made notable contribution in the relevant fields of activity including social scientists, activists and experienced administrators with proven record of work among the bonded or rural labour:

Provided that not less than one-third of the members shall be women and not less than one-fifth of the members shall be from the Scheduled Castes and Scheduled Tribes.

(6) The method of appointment, term of office and other conditions of service of the Chairperson and the other members of the National Authority shall be prescribed by the Central Government.

(7) The functions of the National Authority shall be—

(a) to assess through national mapping the incidence of bonded labour;

(b) to recommend appropriate measures for eradicating the system of bonded labour in the country;

(c) to frame schemes for relief and rehabilitation of bonded labour;

(d) to frame schemes for regulating the employment, conditions of work and service including the welfare and social security of rural labour and including labour released from bondage; and unorganised labour;

(e) to frame schemes for regulating the employment, conditions of work and service, including welfare and social security of persons in the scheduled employments;

(f) to co-ordinate with the National Authority for Social Security in framing schemes for the welfare including Social Security of rural labour including labour released from bondage and unorganised labour;

(g) to oversee the implementation of the schemes; and

(h) to co-ordinate the working of the Central and State Boards established under section 266.

Board of Bonded and Rural Labour.

266. *(1)* **There shall be established a Board of Bonded and Rural Labour (hereafter in this chapter referred to as Board) in each State and in each Union Territory.**

(2) The Board shall be a body corporate and shall consist of a chairperson and other members not exceeding fifteen.

(3) The chairperson shall be a serving or retired Judge of High Court or a person qualified to be appointed as Judge of a High Court and shall be appointed by the appropriate Government in consultation with the Chief Justice of the High Court concerned.

(4) The other members shall comprise representatives of the appropriate Government, National Authority, organisations of employers and employees and other persons who have made notable contribution in the relevant fields including social scientists, activists and experienced administrators with proven record of work among bonded and rural labour.

(5) **The method of appointment, term of office and other conditions of service of the member of the Board shall be prescribed by the appropriate Government.**

(6) The functions of the Board shall be—

(a) *(i)* to identify bonded labour and to register them;

(ii) to have bonded labour released through appropriate proceedings;

(iii) to provide relief and to rehabilitate the bonded labourers who are released from bondage;

(iv) to provide such other assistance as the bonded labourers released from bondage would require to prevent them from sliding back to bondage;

(b) to frame supplementary schemes for relief and rehabilitation of bonded labour and for regulating the employment, conditions of work and service including social security and welfare of rural labour and the labourers released from bondage, if considered necessary;

(c) to implement the schemes framed by the National Authority and the supplementary schemes framed by itself for regulating the employment and conditions of work and service of rural labour including the labour released from bondage;

(d) to co-ordinate with the Board of Social Security in implementing the schemes for the welfare and social security of the rural labour including labour released from bondage.

(7) Each Board may have its own regional district, taluk or village level units or operate through the Panchayat Raj bodies at those levels as is found convenient and necessary.

(8) **The appropriate Government shall provide such number of officers and staff as necessary for assisting the Board in its work.**

(9) **The administrative expenses of the Board shall be met from grants from the appropriate Government.**

(10) The Board or any officer of the Board authorised to act in this behalf may by order determine any sum due from any registered rural employer or registered rural labourer under this chapter or any scheme made thereunder and for this purpose may conduct such enquiry as the Board or such officer may consider necessary.

(11) No order determining the sums due from a registered employer or employee shall be made unless the employer or labourer as the case may be is given reasonable opportunity of representing his case.

(12) An order made under this section shall be final.

(13) The Board in order to effectively implement the provisions of the scheme and to determine the sum due from any employer or employee under this chapter shall have the power to attach and seize stocks of goods with power to direct sale of the said goods and payment to the employees their unpaid due, if any, out of the proceeds.

(14) The Board shall also have the power to issue orders, injunctions and prohibitions to registered rural employers regarding employment of unorganised workers.

(15) The Board shall have the powers to cancel the registration of any employer under this chapter for violation of any of the provisions of this chapter.

(16) The Board shall comply with the directions which the National Authority may give with respect to its functions.

(17) No act or proceeding of the Board shall be questioned or invalidated by reason of any vacancy in its membership or by reason of any defect in its constitution.

Board to have certain powers of a Court.

267. *(1)* Every Board constituted under this Part of officer conducting an enquiry shall have for the purpose of such enquiry, the same powers as are vested in a court trying a suit under the Code of Civil Procedure, in respect of the following matters, namely:—

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(a) enforcing the attendance of any witness or examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavit;

(d) issuing commission for examination of witnesses or documents; and

(e) any other matter which may be prescribed.

(2) Any such enquiry shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purpose of section 196 of the Indian Penal Code.

45 of 1860.

Accounts and Audit.

268. *(1)* Every Board established under section 266 shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including a balance sheet in such form as may be prescribed.

(2) The accounts of the Board shall be audited annually by the Comptroller and Auditor-General of India or by such other auditors as are appointed in consultation with the Comptroller and Auditor-General of India.

(3) The auditors shall have access to the books of accounts and other documents of the Board at all reasonable times and may for the purpose of audit call for such explanations and information as they may require and examine any member of the Board.

(4) The accounts of the Board duly certified by the auditors together with the audit report thereon shall be submitted to the appropriate Government who shall lay the same before the legislature concerned.

(5) The cost of audit shall be met out of the funds of the Board.

(6) The Board shall submit to the appropriate Government an annual report in such manner as may be prescribed and every report so received shall be laid before the legislature concerned.

Schemes for bonded and Rural Labour.

269. *(1)* The National Authority shall frame one of more schemes for—

(a) relief and rehabilitation of bonded labour;

(b) regulating the employment, conditions of work and service of the rural labour.

(2) The schemes shall provide for—

(a) registration of labour including labour released from bondage;

(b) registration of rural employers employing rural labour;

(c) the application of the schemes to such classes of rural labour and rural employers including contractors or intermediate employers as may be specified;

(d) defining the obligations of registered rural labour and rural employers subject to the fulfilment of which the schemes may apply to them;

(e) regulating the recruitment and entry into the scheme of rural labour and rural employers including the maintenance of registers, removal either temporarily or permanently of names from the registers and the imposition of fees for registration;

(f) allocation of registered rural labourers and rural employers or contractors;

(g) regulating the rates and payment of wages, hours of work, conditions as to weekly and other holidays and wages in respect thereof, leave with and without wages, payment of bonus and other benefits;

(h) the safety and health measures at the places of work;

(i) administration of the scheme and the funds provided for the purpose including the cost of administration; and

(j) such other incidental and supplementary matters as may be found necessary or expedient for giving effect to the purposes of the schemes.

(3) The appropriate Board may, with the prior approval of the National Authority, amend, alter or vary the schemes for the purpose of effective implementation of the schemes having regard to any special condition obtaining in the State and for providing additional protection and benefits to the agricultural labour.

Employment according to schemes.

270. On and from the date on which this code comes into force, a rural or other employer shall be prohibited from employing a person except in accordance with the scheme framed for the purpose.

Restriction as to age.

271. No person below the age of fifteen shall be employed in any employment.

Hours of work.

272. The National Authority shall fix the hours of work of the employees so that no one is required ordinarily to work for more than eight hours in a day.

Wages etc.

273. *(1)* The Board shall fix annually the rates of wages payable to the rural labour with effect from a prescribed date after consultation with the representative of the rural employers and employees which shall not be less than the minimum wages prescribed by the appropriate Government.

(2) If the rates of wages are fixed on piece rate basis it shall be such that an adult worker working eight hours a day is able to earn the equivalent of the minimum time rate of wages fixed by the appropriate Government including an element of the wages payable for the weekly rest day and taking into consideration the time required for the labourer to travel to the premises of the employer to collect raw materials and to deliver the finished products.

(3) In the case of a home worker he shall be paid in addition to his wages an amount computed as a percentage of the wage representing the cost of accommodation, electricity and other equipment issued by him in the performance of the work assigned to him.

(4) In the event of the Board being unable to provide work to a rural labourer on account of any reason it shall pay to the employee twenty five per cent of the prescribed rate of wage as fall back wages, provided the labourer has worked for at least one hundred twenty days in the preceding twelve months or for a period of two hundred forty days in the preceding three years.

Migrant Labour.

274. *(1)* There shall be no discrimination against migrant labour in the matter of wages or other conditions of service.

(2) A migrant worker employed in a seasonal employment shall be paid one single bus fare or a second class railway fare for his journey from his village to the place of work and back for each season and a displacement allowance at not less than fifty per cent of his monthly wages.

Employment Guarantee.

275. The Board shall ensure that all the registered rural labour are given work on full wages for a minimum period of time every month or every year as the case may be and that in respect of the period for which such employment is not available to the registered rural labour though they are available for work they shall, subject to such conditions as may be specified in the scheme, receive a retention allowance or a fall back wage.

Guarantee of Wages.

276. *(a)* The registered employers including the contractors shall remit to the appropriate Board the amount of wages payable to the employees allocated to them for the work done and the Board shall disburse the wages to the rural labour.

(b) The period within which the rural employers should remit the amount of wages payable to the rural labourers shall be prescribed by the appropriate Board.

(c) If a rural employer defaults in making any payment within the prescribed period, the Board may require the rural employer to deposit in advance the amounts payable for future employment of rural labour.

(d) The rural labourers shall be entitled to payment of wages by the Board for the work done irrespective of whether the amounts are remitted or deposited in advance by the employers concerned, or not.

(e) Where the Board pays to the rural labour the wages due to them before receiving the amounts from the rural employer, the amounts so paid shall be recoverable from the rural employers with such penalty or surcharge as may be prescribed.

Welfare fund and benefits.

277. *(1)* The provisions of Sec. 173 of this Act shall apply to every worker registered under this chapter, subject to such modifications as may be prescribed;

(2) Notwithstanding anything contained in any law for the time being in force, the appropriate Government may prescribe that every registered rural employer shall contribute to the Welfare Fund established under section 173 an amount not exceeding three per cent of the wages paid or payable.

(3) Notwithstanding anything contained in any law for the time being in force the following additional benefits at the prescribed rates may be paid out of the Welfare Fund namely:—

(i) Educational benefit;

(ii) Insurance benefit.

(4) Every employee shall be entitled to medical attendance and treatment in a Government hospital or dispensary for himself and his family free of cost; if an agricultural labourer incurs any expenditure on medical attendance on any treatment of himself or the member of his family it shall be reimbursed to him subject to such conditions as may be prescribed.

(5) The Board shall set up and maintain a creche in every village locality or neighbourhood where homebased work is carried on for the use of the employees' children.

Settlement of disputes.

278. *(1) (a)* A Gram Nyayalaya shall be established for each village or for a group of villages having population of not less than one thousand for resolving disputes between one or more rural labourers and a rural employer or the Board or between one rural labourer and another relating to employment;

(b) The Gram Nyayalaya shall consist of a Panchayat Raj Judge and two other judges to be known as Lay Judges;

(c) There shall be a cadre of Panchayat Raj Judges and a Panchayat Raj Judge shall belong to that cadre;

(d) The Lay Judges shall be village level workers;

(e) A Panchayat Raj Judge shall possess the qualifications prescribed for

appointment as of Magistrate, Civil Judge (Junior Division) or Judicial Magistrate (First Class);

(f) The Lay Judges should have passed higher secondary or equivalent examination and be socially oriented;

(g) The qualification, the mode of appointment, term of office and other conditions of service of the Panchayati Raj Judge and other Lay Judges shall be as may be prescribed;

(h) The jurisdiction of the Gram Nyayalaya and the procedure to be followed by it shall be as prescribed.

(2) (a) The appropriate Government shall appoint a liaison officer for each Gram Nyayalaya.

(b) The qualifications, method of appointment, term of office and other conditions of service and functions of the liaison officer shall be such as may be prescribed;

(c) The function of a liaison officer shall be to tour villages within his jurisdiction regularly, to contact bonded and rural labour, to ascertain from them whether they are getting the benefits conferred on them by law, to collect information about the implementation of law, to motivate the individuals and groups concerned to assert their rights by having recourse to Gram Nyayalaya and to submit petitions to Gram Nyayalaya himself on their behalf;

(d) The *locus standi* of the liaison officer shall not be questioned by the party against whom legal action is initiated on the basis of his petition.

(3) (a) There shall be a Nyaya Panchayat in each block and it shall consist of three Panchayat Raj Judges;

(b) The qualifications method of appointment, term of office, conditions of service, jurisdiction and the procedure to be followed by the judges of the Nyaya Panchayat shall be such as may be prescribed;

(c) Any party aggrieved by the decision of the Gram Nyayalaya may prefer an appeal to the Nyaya Panchayat and the decision of the Nyaya Panchayat shall be final.

(4) Subject to the provisions of sub-sections *(1)* and *(3)* of this section, the provisions of sections 112 to 153 shall apply to the workers and employers registered under this Chapter.

Organisation of employees.

279. *(1)* Notwithstanding anything contained in any other law for the time being in force, ten or more employees may form an organisation which may function as a trade union, co-operative society or a mutual benefit society.

(2) The appropriate Government shall frame rules to regulate the working of such an organisation except in so far as it functions exclusively as a trade union or as cooperative and the organisation shall be governed by such rules.

C. *Unorganised Labour*

Application.

280. *(1)* The provisions of this part shall apply to the employments specified in Schedule XII (hereinafter in this Chapter referred to as the Scheduled Employments).

(2) The appropriate Government may after giving notice of not less than three months, by notification, add to the Schedule any employment which in its opinion should be brought under this law.

(3) The provisions of this Code shall apply to the scheduled employments, except as otherwise provided in this Chapter.

Board of Unorganised Labour.

281. *(1)* There shall be established a Board of Unorganised Labour (hereinafter referred to as Board in this Chapter) in each State and in each Union territory.

(2) The Board shall be a body corporate and shall consist of a Chairperson, representatives of employers, including intermediate employers and contractors, representatives of employees in the various scheduled employments, and representatives of the Government, not exceeding thirty:

Provided that the number of members representing the employers shall not exceed the number of members representing the employees.

(3) The Chairperson of the Board shall be one of the members appointed to represent the appropriate Government nominated in this behalf by the appropriate Government.

(4) The methods of appointment, term of office and other conditions of service of the chairperson and other members of the Board shall be such as may be prescribed by the appropriate Government.

(5) The provisions of sub-sections *(6)* to *(17)* of section 266 and sections 267 and 268 shall so far as may be, apply to the Board established under this Section as they apply to the Board of Bonded and Rural Labour.

Schemes for Uno.ganised labour.

282. *(1)* The National Authority shall frame one or more schemes for the purpose of registration, regulation of the employment, wages and other conditions of service of unorganised labour and for the registration of employers employing the unorganised labour.

(2) Provisions of clauses *(b)* to *(j)* of sub-section *(2)* and sub-section

(3) of 271, so far as may be, apply to the unorganised labour as they apply to the bonded and rural labour.

Employment, etc.

283. The provisions of sections 272, 279 and 281 shall, so far as may be, apply to the unorganised labour as they apply to the bonded and rural labour with respect to employment, hours of work, wages and all other matters relating to employment, welfare, including formation of association of employees:

Provided that every employee who is employed in a scheduled employment of seasonal nature shall be paid a retention allowance for the off season period at a rate which shall not be less than fifty per cent of the average wage earned during the working season.

Settlement of Disputes of Unorganised labour.

284. For the settlement of disputes the provisions of sections 112 to 153 of this Act shall apply to the unorganised employees registered under this chapter subject to such modifications as may be prescribed.

SCHEDULE I

Occupations and Processes in which employment of young persons is prohibited

[See sub-section *(2)* of section 23]

PART A

OCCUPATIONS

Any occupation connected with —

(1) Transport of passengers, goods or mails by railway;

(2) Cinder picking, clearing of an ash pit or building operations in railways premises;

(3) Work in a catering establishment at a railway station, involving the movement of a vendor or any other employee of the establishment from one platform to another or into or out of a moving train;

(4) Work relating to the construction of a railway station or with any other where such work is done on close proximity to or between the railway line;

(5) A port authority within the limits of any port.

PART B

PROCESSES

(1) Bidi-making; *(2)* Carpet-weaving; *(3)* Cement Manufacture, including bagging of cement; *(4)* Cloth printing, dyeing and weaving; *(5)* Manufacture of matches, explosives and fire-works; *(6)* Mica-cutting and splitting; *(7)* Shellac manufacture; *(8)* Tanning; *(9)* Wool-cleaning; *(10)* Building and construction industry.

SCHEDULE II

Matters to be provided in the Standing Orders

[See sub-section *(1)* of section 27]

(1) Minimum age for entry into employment;

(2) Method of filling vacancies;

(3) Medical examination;

(4) Scales or rates of wages including allowances;

(5) Hours of work, holidays and pay days; shift working attendance and late coming;

(6) Conditions of and procedure for grant of leave and holidays and the authorities who may grant the same;

(7) Social security benefits admissible, namely medical benefit, sickness benefit, maternity benefit, dependents benefit or survivor's benefits, provident fund or pension benefit, gratuity and similar other benefits;

(8) Leave travel concession and transport facilities;

(9) Entry into and exit from the premises; liability for search;

(10) Opening, closing and reopening of sections of the establishment, temporary stoppages of work; and the rights and liabilities of the employer and the employees arising therefrom;

(11) Termination of employment and the notice thereof to be given by the employer as well as the employees;

(12) Acts of omission and commission which constitute misconduct and the punishment that may be imposed for the same;

(13) Suspension;

(14) Transfers;

(15) Means of redressal for employees against unfair treatment or wrongful exaction by the employer or his agents or servants;

(16) any other matter which may be prescribed.

SCHEDULE III

Conditions of service for change of which notice is to be given

(*See* Section 28)

(1) Wages including the period and mode of payment.

(2) Contribution paid or payable by the employer to any provident fund or pension fund or for the benefit of the employees under any law for the time being in force.

(3) Compensatory and other allowances.

(4) Hours of work and rest intervals.

(5) Leave with wages and holidays.

(6) Starting, alternation or discontinuance of shift working otherwise than in accordance with standing orders.

(7) Classification of grades.

(8) Withdrawal of any customary concessions or privileges or change in usage.

(9) Introduction of new rules of discipline or alteration of existing rules except in so far as they are provided in standing orders.

(10) Rationalisation, standardisation or improvement of plant or technique which is likely to lead to retrenchment of employees.

(11) Any increase or reduction (other than casual in the number of persons employed or to be employed in any occupation or process or department on shift (not occasioned by circumstances over which the employer has no control).

SCHEDULE IV

Basic Needs

(*See* Section 67)

(1) Minimum food requirements calculated on the basis of a net intake of 2700 calories per consumption unit.

(2) Minimum clothing requirements estimated at a per capita consumption of 18 yards per annum.

(3) Minimum housing requirements of 400 sq.ft. per family at the rent charged by Government for similar accommodation under any subsidised industrial housing scheme for low income groups.

(4) Fuel, lighting and other requirements estimated to constitute 25 per cent of the minimum wage.

Explanation

In estimating the above basic needs for determination of the minimum wage the standard working class family shall be taken to consist of 3 consumption units (husband or wife, as the case may be, and two children) for one earner, the earnings of women, children and adolescents being disregarded.

SCHEDULE V

Deductions from Wages

(*See* sub-section *(1)* of Section 76)

(1) (a) Deduction from the wages of an employed person shall be made only in accordance with the provisions of this code and they may be of the following kinds only, namely;

(b) deductions for absence from duty;

(c) deductions for damage to or loss of goods expressly entrusted to the employed person for custody; or for loss of money for which he is required to account, where such damage or loss is directly attributable to his neglect or default;

(d) deductions for house accommodation supplied by the employer or by the Government or any housing board set up under any law or the time being in force (whether the Government or the Board is the employer or not) or any other authority engaged in the business of subsiding house-accommodation which may be specified in this behalf by the appropriate Government by notification;

(e) deduction for such amenities and services supplied by the employer as the appropriate Government (or any officer specified by it in this behalf) may, by general or special orders authorise.

Explanation

The word 'services' in this clause does not include the supply of tools and raw materials required for the purpose of employment.

(f) deduction for recovery of advances of whatever nature (including advances for travelling allowance or conveyance allowance), and the interest due in respect thereof, or for adjustment of over-payment of employment;

(g) deductions for recovery of loans granted for house building or other purposes approved by the appropriate Government and the interest due in respect thereof;

(h) deductions of income-tax payable by the employed person;

(i) deductions required to be made by order of a Court or other authority competent to make such orders;

(j) deduction for payments to co-operative societies or of advances from any provident fund to which the Provident Funds Act, 1925 applied or any recognised provident fund as defined in section 58-A of the Indian Income Tax Act, 1922 or any provident fund approved in this behalf by the appropriate Government during the continuance of such approval;

(k) deductions for payment to co-operative societies approved by the appropriate Government or any officer specified by it in this behalf, or to a scheme of insurance maintained by the Indian Post Office;

(l) deductions made with the written authorisation of the person employed for payment of any premium in his life insurance policy to the Life Insurance Corporation Act, 1956, or for the purchase of securities of the Government of India or of any State Government or for being deposited in any Post Office Savings Scheme of any such Government;

(m) deductions made, with written authorisation of the employed person, for the payment of his contribution to any fund constituted by the employer or a trade union registered by the employer or a trade union registered under this Act for the welfare of the employed persons or the members of their families, or both, and approved by the appropriate Government or any officer specified by it in this behalf, during the continuance of such approval;

(n) deductions made, with the written authorisation of the employed person, for payment of the fees payable by him for the membership of any trade union registered under this Act,;

(o) deduction for payment of insurance premia on Fidelity Guarantee Bonds;

(p) deductions for recovery of losses sustained by a railway administration on account of acceptance by the employed person of counterfeit or base coins mutilated or forged currency notes;

(q) deductions for recovery of losses sustained by a railway administration on account of the failure of the employed person to invoice, to bill, to collect or to account for the appropriate charges due to that administration, whether in respect of fares, freight, demurrage, wharfage and carriage or in respect of sale of goods in catering establishment or in respect of commodities in grainships or otherwise;

(r) deductions for recovery of losses sustained by a railway administration on account of any rebates or refunds incorrectly granted by the employed person where such loss is directly attributable to his neglect or default;

(s) deductions, made with the written authorisation of the employed person, for contribution to the Prime Minister's National Relief Fund or to such other fund as the Central Government may, by notification specify;

(t) deductions for contribution to any insurance scheme framed by the Central Government for the benefit of its employees.

Notwithstanding anything contained in this code the total amount of deductions which may be made under paragraph *(2)* in any wage-period from the wages of any employed person shall not exceed—

(i) in case where such deductions are wholly or partly made for payments to cooperative societies under clause *(j)* of paragraph *(1)* seventy-five per cent of such wages, and

(ii) in any other case, fifty per cent of such wages:

Provided that where the total deductions authorised under paragraph *(1)* exceed seventy-five per cent, or, as the case may be, fifty per cent of the wages, the excess may be recovered in such manner as may be prescribed.

(2) Nothing contained in this schedule shall be construed as precluding the employer from recovering from the wages of the employed persons or otherwise any amount payable by such person under any law for the time being in force other than the Indian Railways Act, 1890.

SCHEDULE VI

List of occupational diseases

[*See* Sub-section *(1)* of Section 96, Section 110 and Sub-section *(4)* of Section 163]

Sl. No.	Occupational disease	Employment
1	2	3
Part A		
1.	Interactions and parasitic diseases contracted in an occupation where there is a particular risk of contamination.	*(a)* All work involving exposure to health or laboratory work; *(b)* All work involving exposure to veternary work; *(c)* Work relating to handling animals, animal carcasses, or merchandise which may have been contaminated by animals or animal carcasses; *(d)* Other work carrying a particular risk of contamination.

1	2	3
2.	Diseases caused by work in compressed air.	All work involving exposure to the risk concerned.
3.	Diseases caused by lead or its toxic compounds.	All work involving exposure to the risk concerned.
4.	Poisoning by nitrous fumes.	All work involving exposure to the risk concerned.
5.	Poisoning by organophosphorus compounds.	All work involving exposure to the risk concerned.
Part B		
1.	Diseases caused by phosphorous or its compounds.	All work involving exposure to the risk concerned.
2.	Diseases caused by mercury or its toxic compounds.	All work involving exposure to the risk concerned.
3.	Diseases caused by benzine or its toxic homologues.	All work involving exposure to the risk concerned.
4.	Diseases caused by nitro and amido toxic derivatives of benzene or its homologues.	All work involving exposure to the risk concerned.
5.	Diseases caused by chromium or its toxic compounds.	All work involving exposure to the risk concerned.
6.	Diseases caused by arsenic or its toxic compounds.	All work involving exposure to the risk concerned.
7.	Diseases caused by radioactive substances and ionising radiations.	All work involving exposure to the action or radioactive substances or causing radiations
8.	Primary epithelomatous cancer of the skin caused by tar, pitch, bitumen, mineral oil, anthracene, or the compounds, products or residues of these substances.	All work involving exposure to the risk concerned.
9.	Diseases caused by the toxic halogen derivatives of hydrocarbons (of the aliphate and aromatic series).	All work involving exposure to the risk concerned.
10.	Diseases caused by the carbon disulphide.	All work involving exposure to the risk concerned.
11.	Occupational cateract due to infrared radiations.	All work involving exposure to the risk concerned.
12.	Diseases caused by manganese or its toxic compounds.	All work involving exposure to the risk concerned.
13.	Skin diseases caused by physical, chemical or biological agents not included in other items.	All work involving exposure to the risk concerned.
14.	Hearing impairment caused by noise.	All work involving exposure to the risk concerned.
15.	Poisoning by dinitrophenol or a homologue or by substituted dinitrophenol or by the salts of such substances.	All work involving exposure to the risk concerned.
16.	Diseases caused by beryllium or its toxic compounds.	All work involving exposure to the risk concerned.
17	Diseases caused by cadmium or its toxic compounds.	All work involving exposure to the risk concerned.

1	2	3
18.	Occupational asthma caused by recognised sensitising agents inherent to the work process.	All work involving exposure to the risk concerned.
19.	Diseases caused by fluorine or its toxic compounds.	All work involving exposure to the risk concerned.
20.	Diseases caused by nitroglycerine or other nitroacid esters.	All work involving exposure to the risk concerned.
21.	Diseases caused by alcohols and ketones.	All work involving exposure to the risk concerned.
22.	Diseases caused by asphyxiants: carbon monoxide, and its toxic derivatives, hydrogen sulphide.	All work involving exposure to the risk concerned.
23.	Lung cancer and mesotheliomas caused by asbestos.	All work involving exposure to the risk concerned.
24.	Primary neopiasm of the epithelial lining of the urinary bladder or the kidney of the ureter.	All work involving exposure to the risk concerned.
Part C		
1.	Pneumoconiouses caused by sclereginic mineral dust (silicosis, anthraoosilicosis absestosis) and silica tubercolosis provided that silicosis is an essential factor in causing the resultant incapacity or death.	All work involving exposure to the risk concerned.
2.	Bagassosis.	All work involving exposure to the risk concerned.
3.	Bronchopulmonary diseases caused by cotton, flax, hemp and sisal dust (Byssinosis).	All work involving exposure to the risk concerned.
4.	Extrinsic allergic alvoelitis caused by the inhalation of organic dusts.	All work involving exposure to the risk concerned.
5.	Bronchopulmonary diseases caused by hard metals.	All work involving exposure to the risk concerned.

SCHEDULE VII

Matters to be specified in the rules of trade union or employers' association

(*See* sections 119 and 120)

(1) The name of the trade union or employers' association.

(2) The objects for which the Union or association has been formed.

(3) Rate of subscription for membership of the union or association.

(4) Procedure for admissions of new members.

(5) Rights of minors to membership.

(6) Resignation of members.

(7) Rules of discipline and expulsion of members.

(8) Maintenance of a list of members of the union or association and facilities for inspection thereof.

(9) Constitution of the union or association of the general council, executive committee, branches, office bearers and other related matters.

(10) The manner in which the members of the executive and office bearers may be appointed and removed.

(11) Periodicity of the meetings of the executive committee and the general council and the procedure for convening and conducting the meeting.

(12) Procedure for receipt, custody and disbursement of union or association funds and the purposes for which the funds may be utilised.

(13) Preparation of annual account, their audit and submission to the general body.

(14) Rules of service of the employees of the Union or association including schemes of pension and provident funds for the benefit of the employers.

(15) Procedure for preparation and adoption of the programmes and budgets and annual reports of the union or association and their submission to the general body.

(16) Procedure for amendment of the rules.

(17) Procedure for dissolution of union or association and the disposition of the assets of the union in the event of its dissolution.

SCHEDULE VIII

Jurisdiction of adjucative machinery Matters with the jurisdiction of Labour Courts

(*See* secton 147)

Part A

1. The propriety or legality of an order passed by an employer under the standing orders;
2. The application and interpretation of standing orders;
3. Discharge or dismissal of workmen including reinstatement of, or grant of relief to, workmen wrongfully dismissed;
4. Withdrawal of any customary concession or privilege;
5. Illegality or otherwise of a strike or lock-out; and
6. All matters other than those specified in the Third Schedule.

Part B

Matters within the jurisdiction of Labour Relations Commission

1. Wages, including the period and mode of payment;
2. Compensatory and other allowances;
3. Hours of work and rest intervals;
4. Leave with wages and holidays;
5. Bonus, profit sharing, provident fund and gratuity;
6. Shift working otherwise than in accordance with standing orders;
7. Classification by grades;
8. Rules of discipline;
9. Rationalisation;
10. Retrenchment of workmen and closure of establishment; and
11. Any other matter that may be prescribed.

SCHEDULE IX

Matters which should be brought before Management Council

(*See* section 155)

Part A

1. Production facilities.

2. Storage facilities in a shop.
3. Material economy.
4. Operational problems.
5. Wastage control.
6. Hazards and safety problems.
7. Quality improvement.
8. Cleanliness.
9. Monthly targets and production schedules.
10. Cost reduction programmes.
11. Formulation and implementation of work system.
12. Design group working.
13. Welfare measures related particularly to the shop.

Part B

Operational Areas

1. Evolution of productivity schemes taking into account the local conditions.
2. Planning, implementation, fulfilment and review of monthly targets and schedules.
3. Material supply and its shortfall.
4. Storage and inventories.
5. House Keeping.
6. Improvements in productivity in general and in critical areas in particular.
7. Encouragement to and consideration of suggestions.
8. Quality and technological improvements.
9. Machine utilisation knowledge and development of new products.
10. Operational performance figures.
11. Matters not resolved at the shop-level or concerning more than one shop.
12. Reviews of the working of the shop-level bodies.

Economic and financial areas

1. Profit and loss statement and balance-sheet.
2. Review of operating expenses, financial results and cost of sales.
3. Plant performance in financial terms, labour and managerial costs, market conditions, etc.

Personnel matters

1. Absenteeism.
2. Special problems of women workers.
3. Initiation and supervision of workers' training programmes.
4. Administration of social security schemes.

Welfare areas

1. Operational details.
2. Implementation of welfare schemes, medical benefits and transport facilities.
3. Safety measures.
4. Sports and games.
5. Housing.

6. Township administration, canteen, etc.

7. Control of gambling, drinking and indebtedness.

Environmental areas

1. Extension activities and community development projects.

2. Pollution control.

SCHEDULE X

Disablements—Permanent Total or Partial

[*See* clauses *(ii)* and *(iii)* of sub-section *(1)* of section 163]

Sl.No.	Description of injury	Percentage of loss of earning capacity
Part I		
List of injuries deemed to result in permanent total disablement		
1.	Loss of both hands or amputation at higher sites	100
2.	Loss of a hand and a foot.	100
3.	Double amputation through leg or thigh, or amputation through leg or thigh on one side and loss of other foot.	100
4.	Loss of sight to such an extent as to render the claimant unable to perform any work for which eye sight is essential.	100
5.	Very severe facial disfigurement.	100
6.	Absolute deafness.	100
Part II		
List of injuries deemed to result in permanent partial disablement—Amputation—upper limbs (either arm)		
7.	Amputation through shoulder joint—	90
8.	Amputation below shoulder with stump less than 20.32 c.m. from tip of acromion—	80
9.	Amputation from 20.32 c.m. from tip of acromion to less than 11.43 c.m. below tip of olecranon—	70
10.	Loss of a hand or of the thumb and four fingers of one hand or amputation from 11.43 c.m. below tip of olecranon—	60
11.	Loss of thumb—	30
12.	Loss of thumb and its metacarpal bone—	40
13.	Loss of four fingers of one hand—	50
14.	Loss of three fingers of one hand—	30
15.	Loss of two fingers of one hand—	20
16.	Loss of terminal phalanx of thumb—	20
16.	A guillotine amputation of the tip of the thumb without loss of bone—	10
17.	Amputation of both feet resulting in end-bearing stumps—	90
18.	Amputation through both feet proximal to the metatarso phalangeal joint—	80
19.	Loss of all toes of both feet through the metatarso phalengeal joint—	40
20.	Loss of all toes of both feet proximal to the proximal inter-phalangeal joint—	30
21.	Loss of all toes of both feet distal to the proximal interphalangeal joint—	20
22.	Amputation at hip—	90

23.	Amputation below hip with stump exceeding 12.70 c.m. in length measured from tip of great trenchanter—	80
24.	Amputation below hip with stump not exceeding 12.70 c.m. in length measured from tip to great trenchanter but not beyond middle thigh—	70
25.	Amputation below middle thigh to 8.89 c.m. below knee—	60
26.	Amputation below knee with stump exceeding 8.89 c.m. but not exceeding 12.70 c.m.—	60
27.	Amputation below knee with stump exceeding 12.70 c.m.—	50
28.	Amputation of one foot resulting in end-bearing—	50
29.	Amputation through one foot proximal to a matatarsophalangeal joint—	50
30.	Loss of all toes of one foot through the metatarsophalangeal joint—	20
Other injuries		
31.	Loss of one eye, without complications, the other being normal—	40
32.	Loss of vision of one eye without complications or disfigurement of eyeball, the other being normal—	30
32-A	Loss of Partial loss of vision of one eye—	10
A—Fingers right of left hand Index finger		
33.	Whole—	14
34.	Two phalanges—	11
35.	One phalanx—	9
36.	Guillotine amputation of tip without loss of bone—	5
37.	Whole—	12
38.	Two phalanges—	9
39.	One phalanges—	7
40.	Guillotine amputation of tip without loss of bone—	4
Ring or little finger		
41.	Whole—	7
42.	Two phalanges—	6
43.	One phalanx—	5
44.	Guillotine amputation of tip without loss of bone—	2
B—Toes of right or left foot		
Great Toe		
45.	Through metatarso-phalangeal joint—	14
46.	Part, with some loss of bone—	3
Any other toe		
47.	Through metatarso-phalangeal joint—	3
48.	Part, with some loss of one—	1
Two toes of one foot, excluding great toe		
49.	Through metatarso-phalangeal joint—	5
50.	Part, with some loss of bone—	2
Three toes of one foot, excluding great toe		
51.	Through metatarso-phalangeal joint—	6
52.	Part, with some loss of bone—	3

Four toes of one foot, excluding great toe

53.	Through metatarso-phalangeal joint—	9
54.	Part, with some loss of bone—	3

Note: Complete and permanent loss of the use of any limb or member referred to in this Schedule shall be deemed to be the equivalent of the loss of the limb or member.

SCHEDULE XI

Administration of Social Security

(*See* Section 176)

Obligations of the Principal Employers.

1. *(1)* The principal employer shall pay in respect of every employee, whether directly employed by him or by or through an immediate employer both the employer's contribution and the employees contribution.

(2) In the case of an employee directly employed by him, the principal employer shall be entitled to recover from the employee his contribution by deduction from his wages and not otherwise.

(3) No such deduction shall be made from any wages other than such as relate to the period or part of the period in respect of which the contribution is payable or in excess of the sum representing the employees contribution for the period.

(4) Neither the principal employer nor the immediate employer shall be entitled to deduct the employers' contribution from the wages payable to an employee or otherwise to recover it from him.

(5) Any sum deducted by the principal employee from wages under this section shall be deemed to have been entrusted to him by the employee for the purpose of paying the contribution in respect of which it was deducted.

(6) A principal employer shall bear the expenses of remitting the contribution to the Fund.

(7) A principal employer who has paid contribution in respect of an employee employed by or through an immediate employer shall be entitled to recover the amount of the contribution so paid from the immediate employer either by deduction from any amount payable to him by the principal employer under any contract or as a debt payable by the immediate employer.

Obligation of immediate employer.

2. *(1)* The immediate employer shall maintain a register or employees employed by or through him as may be prescribed and submit the same to the principal employer before settlement of any amount payable by him to the principal employer.

(2) The immediate employer shall be entitled to recover the employee's contribution from the employee employed by or through him by deduction from the wages and not otherwise subject to the conditions specified in this section.

(3) No employee's contribution shall be payable by or on behalf of an employee whose average daily wages do not exceed the minimum age as may be prescribed by the appropriate Government.

Determination of the amount due.

3. *(1)* The amount of contribution to be made in respect of the employees of an establishment where necessary shall be determined by the designated authority by an order on the basis of the returns submitted by the employer or any other information available with the authority or after conducting such enquiry as the authority deems necessary.

(2) No such order shall be passed by the authority unless the principal or immediate employer of the person in charge of the establishment has been given an opportunity of being heard.

(3) The officer conducting the inquiry under this paragraph shall, for the purpose of such inquiry, have the same powers as are vested in a Court, under the Code of Civil Procedure, 1908, for trying a suit in respect of the following matters, namely:—

(*a*) enforcing the attendance of any persons or examining it on oath;

(*b*) requiring the discovery and production of documents;

(*c*) receiving evidence on affidavit;

(*d*) issuing commissions for the examinations of witnesses;

and any such inquiry shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purpose of section 196 of the Indian Penal Code.

(*4*) where the employer, employee or any other person required to attend the inquiry without assigning any valid reason or fails to produce any documents or to file any report or return when called upon to do so, the officer conducting the inquiry may determine the amount due on the basis of the evidence adduced during such inquiry and other documents available on record.

Ex-parte orders.

4. (*1*) Where an order is passed ex-parte the aggrieved party may within three months from the date of communication of such order apply to the officer for setting aside such order and if he satisfies the officer that the show cause notice was not duly served or that he was prevented by any sufficient cause from appearing when the enquiry was held the officer shall make an order setting aside his earlier order and shall appoint a date for proceeding with the inquiry.

(*2*) No such order shall be set aside merely on the ground that there has been irregularity in the service of the sho.. casue notice if the officer is satisfied that the employer had notice of the date of hearing and had sufficient time to appear before the officer.

(*3*) No Such order shall be set aside on any application unless notice thereof has been served on the opposite party.

(*4*) Where an appeal has been preferred against an order passed ex-parte and such appeal has been disposed of otherwise than on the ground that the appellant has withdrawn the appeal no application shall lie for setting aside the ex-parte order.

Review of orders.

5. (*1*) Any person aggrieved by an order made under paragraph 16 from which no appeal has been preferred and who from the discovering of the new and improtant matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the order was made or on account of some mistake or error apparent on the face of the record or for any other sufficient reason, desires to obtain a review of such order may apply for a review of that order to the officer who passed the order.

(*2*) Every application for review shall be filed in such form and manner and within such time as may be specified in the scheme.

(*3*) Where it appears to the officer receiving the application for review that there is no sufficient ground for review he shall reject the application.

(*4*) Where the officer is of opinion that the application for review should be granted he shall grant the same:

Provided that no such application shall be granted without notice to all the parties before him to enable them to appear and be heard in support of the order in respect of which a review is applied for: Provided further that no such application shall be granted on the ground of discovering of new matter or evidence which the applicant alleges was not within his knowledge or could not be produced by him when the order was made without proof of such allegation.

(*5*) No appeal shall lie against the order of the officer rejecting an application for review but an appeal shall lie against an order passed under review as if the order passed under review were the original order passed by him.

(*6*) An officer may review an order passed by him on his own motion if he is satisfied that it is necessary so to on any ground.

(*7*) Where an order determining the amount due from employer has been passed and if the officer who passed the order has reason to believe that by reason of the omission or failure on the part of the employer to make any document or report available or to disclose fully and truly all material facts necessary for determining the correct amount due from the

employer any amount so due from such employer for any period has escaped his notice or has in consequence of information in his possession reason to believe that any amount to be determined has escaped from his determination for any period for any other reason, he may within a period of five years from the date of communication of the order already passed reopen the case and pass appropriate orders redetermining the amount due from the employer in accordance with the provision of this Act:

Provided that no such order shall be passed unless the employer is given a reasonable opportunity of representing his case.

Appeal.

6. Any person aggrieved by an order passed by an authority under this section (except an order rejecting an application for review) may prefer an appeal to the Labour Court against such order in such form and manner and within such time as may be prescribed.

Interest on delayed payments.

7. An employer who has failed to pay the contribution within the prescribed period shall be liable to pay interest on delayed payment at the prescribed rate on the amount due from him from the date on which the amount has become due till the date of its actual payment.

Mode of Recovery of Moneys due from employers. Issue of certificate to the Recovering Officer.

8. Any amount due for payment under this Act, if it is in arrears, may be recovered as arrears of land revenue.

9. *(1)* Where any amount is in arrears, the authorised officer may issue to the Recovery Officer a certificate under his signature specifying the amount of arrears and the Recovery Officer on receipt of such certificate shall proceed to recover the amount specified therein from the establishment or, as the case may be, the employer by one or more of the methods mentioned below, namely:—

(a) Attachment and sale of the movable and immovable property of the establishment or as the case may be the employer;

(b) arrest of the employer and his detention in prison;

(c) appointing the receiver for the management of the movable or immovable properties of the establishment, or as the case may be, the employer.

(2) The attachment and sale of any property under sub paragraph *(1)* shall first be effected against the properties of the establishment and where such attachment and sale is insufficient for recovering the whole of the amount of arrears specified in the certificate, the Recovery Officer may take such proceeding against the property of the employer in default for the recovery of the whole or any part of the arrears.

(3) The authorised officer may issue a certificate under this sub-section notwithstanding that proceedings for recovery of the arrears by any other mode have been taken.

Recovery Officer to whom certificate is to be forwarded.

10. *(1)* The authorised officer may forward the certificate referred to in paragraph 22 to the Recovery Officer within those jurisdiction the employer carries on his business or profession or within whose jurisdiction the principal place of his establishment is situate; or resides or any movable or immovable property of the establishment or the employer is situate.

(2) Where an establishment or the employer has property within the jurisdiction of more than one Recovery Officer and the Recovery Officer to whom a certificate is sent by the authorised officer is not liable to recover the entire amount by the sale of the property, movable or immovable, within his jurisdiction; or is of the opinion that, for the purpose of expediting or securing the recovery of the whole or any part of the amount, it is necessary so to do he may send the certificate or, where only a part of the amount is to be recovered, a copy of the certificate certified in the prescribed manner and specifying the amount to be recovered to the Recovery Officer within whose jurisdiction the establishment or the employer has property or the employer resides, and thereupon that Recovery Officer shall also proceed to recover the amount due under this section as if the certificate or the copy thereof had been the certificate sent to him by the authorised officer.

Validity of certificate, and amendment thereof.

11. *(1)* When the authorised officer issues a certificate to a Recovery Officer under paragraph 9, it shall be open to the employer to dispute before the recovery officer the correctness of the amount, and no objection to the certificate on any other ground shall also be entertained by the Recovery Officer.

(2) Notwithstanding the issue of a certificate to a Recovery Officer, the authorised officer shall have power to withdraw the certificate or correct any clerical or arithmetical mistake in the certificate by sending an intimation to the Recovery Officer.

(3) The authorised officer shall intimate to the Recovery Officer any orders withdrawing or cancelling a certificate or any correction or amendment made by him.

Stay of proceedings under certifcate and amendment or withdrawal thereof

12. *(1)* Notwithstanding that a certificate has been issued to the Recovery Officer for the recovery of any amount, the authorised officer may grant time not exceeding six months for the payment of the amount, and thereupon the Recovery Officer shall stay the proceedings until the expiry of the time so granted.

(2) Where a certificate for the recovery of amount has been issued, the authorised officer shall keep the Recovery Officer informed of any amount paid or time granted for payment, subsequent to the issue of such certificate.

(3) Where the order giving rise to a demand of amount for which a certificate for recovery has been issued has been modified in appeal or other proceeding under or arising out of or in consequence of this Schedule, and, as a consequence thereof, the demand is reduced but the order is the subject-matter of a further proceeding under this schedule, the authorised officer shall stay the recovery of such part of the amount of the certificate as pertains to the said reduction for the period for which the appeal or other proceeding remains pending.

(4) Where a certificate for the recovery of amount has been issued and subsequently the amount of the outstanding demand is reduced as a result of an appeal or other proceeding under this Schedule, the authorised officer shall, when the order which was the subject-matter of such appeal or other proceeding has become final and conclusive, amend the certificate or as the case may be, withdraw it.

Other modes of recovering.

13. *(1)* Notwithstanding the issue of a certificate to the Recovery Officer, the designated authority may recover the amount by any one or more of the modes provided in this paragraph.

(2) If any amount is due from any person to an employer who is in arrears, the designated authority may require such person to deduct from the said amount the arrears due from the employer and such person shall comply with any such requisition and shall pay the sum so deducted to the credit of the Social Security Fund.

(3) (a) The designated authority may at any time or from time to time, by notice in writing require any person including a Bank or Post Office from whom money is due or may become due to the employer or, as the case may be, the establishment or any person who holds or may subsequently spend all money for or on account of the employer or, as the case may be, the establishment, to pay the Social Security Fund either forthwith on the money becoming due or being held or at or within the subject in the notice (not being before the money remains due or is held) so much of the money is sufficient to pay the amount due from the employer in respect of the arrears or the whole of the money when it is equal to or less than amount;

(b) A notice under this sub-section may be issued to any person who holds or may subsequently hold money for on account of the employer jointly with any other person and for the purposes of this clause the shares of the joint holders in such account shall be resumed until the contrary is proved, to be equal;

(c) A copy of the notice shall be sent to the employer at his last known address and in the case of joint account to all the joint holders at their last known addresses;

(d) Every person to whom a notice is issued shall be bound to comply with such notice and, in particular, where any such notice is issued to a Post Office, bank or an insurer it shall not be necessary for any pass book deposit receipt policy or

any other document to be produced of any entry endorsement or the like being made before payment is made Notwithstanding any rule practice or requirement to the contrary;

(e) Any claim respecting any property in relation to which a notice has been issued arising after the notice shall be void as again any demand contained in the notice;

(f) Where any person to whom a notice is of objects to it by a statement that the seaway amended or any part thereof is not due to the employer or that he does not hold any money for or on account of the employer then, nothing contained in this Sub-section shall be deemed to require such person to pay any such sum or part thereof as the case may be, but if it is discovered that such statement was false in any material particular such person shall be personally liable to the extent of his own liability to the employer on the date of the notice or to the extent of the employer's liability for any sum due under this code, whichever is less;

(*g*) The designated authority may at any time or from time to time, amend or revoke any notice issued under this sub-paragraph or extend the time for making payment in pursuance of such notice;

(*h*) The designated authority shall grant a receipt for any amount paid in compliance with a notice issued under this sub-paragraph or extend the time for making any payment in pursuance of such notice;

(*i*) The designated authority shall grant a receipt for any amount paid in compliance with a notice issued under this Sub-paragraph, and the person so paying shall be fully discharged from his liability to the extent of the amount so paid;

(*j*) Any person discharging any liability to the employer after the receipt of notice under this Sub-paragraph shall be personally liable to the designated authority to the extent of his own liability to the employer so discharged or to the extent of the employer's liability for any sum due under this code, whichever is less;

(*k*) If the person to whom a notice under this suspension is sent fails to make payment in pursuance thereof to the designated authority shall be deemed to be an employer in default in respect of the amount specified in the notice and further proceedings may be taken against him for the realisation of the amount as if it are an arrears due from him in the manner provided in paragraph 9 the notice shall have the same effect as an attachment of debt by the Recovery Officer in exercise of his powers under that paragraph;

(*l*) The designated authority may apply to the court in whose custody there is money belonging to the employer for payment to him of the entire amount of such money or if it is more than the amount due, an amount sufficient to discharge the amount due;

(*m*) The designated authority may if so authorised by the appropriate Government by general or special order recover any arrears of amount due from an employer or, as the case may be, from the establishment distraint and sale of his or its movable property in manner laid down in the third-schedule to the Income Tax Act, 1961.

Application of certain provisions of Income-tax Act.

14. The provision of the Second and Third Schedule to the Income Tax Act, 1961 and the Income Tax (Certificate proceedings) Rules, 1962 as in force from time to time shall apply with necessary modifications as if the said provision and rules referred to the arrears of the amount mentioned in paragraph 9 instead of to the Income Tax.

Priority of payment contribution.

15. Where an employer is declared as being a company, an order for winding up is made the amount of contributions to the Social Security Fund due from the employer shall where the liability thereof as accrued before the order of adjudication or winding up is

made be deemed to be the first charge on the assets of the establishment and shall Notwithstanding anything contained in any other law for the time being in force be paid in priority to all other debts.

Employer not to reduce wages.

16. No employer shall by reason only of his liability for the payment of any contribution to the Social Security Fund reduce, whether directly or indirectly, the wages of any employee or the total quantum of benefits to which the employee is or his dependents are entitled under the terms of his employment or provisions of this Act.

Provident Fund to be recognised under Act 11 of 1992.

17. For the purpose of the Indian Income Tax Act, 1992 the Provident Fund created under this code shall be deemed to be a recognised provident fund within the meaning of Chapter IX of that Act: Provided that nothing contained in the said chapter shall operate to render effective in any provision of the scheme under which the Provident Fund is established which is repugnant to any of the provisions of that chapter or of the rules as thereunder.

Promotion against attachment.

18. (*1*) The amount standing to the credit of any the Provident Fund shall not in any way be capable of being assigned or engaged and shall not be liable to attachment under any decree or order of any court in respect of any debt or liability incurred by the member and neither the Official Assignee appointed under the Presidency Towns Insolvency Act, 1909, nor any Receiver appointed under the Provincial Insolvency Act, shall be entitled to have claim on any such amount.

(*2*) Any amount standing to the credit of a member in the Provident Fund at the time of his death and payable to his nominee under the scheme or the rules of the provident fund shall subject to any deduction authorised by the said scheme or rules vest in the nominee and shall be free from any debt or other liability incurred by deceased or the nominee before the death of the member and shall also not be liable to attachment under any decree or order of any court.

Power to recover damages.

19. Where an employer makes default in the payment of any contribution to the Social Security Fund the designated authority may recover from the employer by way of penalty such damages, not exceeding the amount of arrears, as may be specified in the scheme. Provided that before levying and recovering such damages the employer shall be given a reasonable opportunity of being heard. Provided further the appropriate recommendation or waive the damages if it is satisfied that the fault is due to sickness of the establishment.

Power of court to make orders.

20. (1) Where an employer is convicted of an offence of making default in any contribution to the Social Security Fund the Court may in addition to any punishment by order in writing require him within a period specified in the order (which the court may if it thinks fit and on application in that behalf from time to time extend) to pay the amount of contribution in respect of which the offence was committed.

(2) Where an order is made under sub-paragraph (*1*) the employer shall not be liable under this code in respect of he continuation of the offence during the period or extended period, if any, allowed by the Court, but if on the expiry of such period or extended period, as the case may be, the order of the Court has not been fully complied with, the employer shall be deemed to have committed a further offence and shall be punished with imprisonment under paragraph 9 and shall also be liable to pay fine which may extend to one thousand rupees for every day after such expiry on which the order has not been complied with.

Special provision relating to existing funds.

21. (*1*) Every employee who is subscriber to the provident fund of an establishment to which this applied shall pending the application of the establishment in which he is employed continue to be entitled to the benefits accruing to him under the provident fund and the provident fund shall continue to be maintained in the same manner and subject to the same considers as it would have been if this code had not been passed.

(*2*) On the application of a scheme framed under this code to the establishment the accumulations in any provident fund of the establishment standing to the credit of the employees who become members of the fund established under the scheme shall, notwithstanding anything to the contrary contained in any law for the

time being in force or in any deed or other instrument establishing the provident fund but subject to the provision if any contained in the scheme be transferred to the provident fund established under the Scheme and shall be credited to the accounts of the employees entitled thereto in the Fund.

Authorising certain employers to maintain Provident Fund Accounts.

22. (*1*) The appropriate Board may, on an application made to in this behalf by the employer and the majority of employees in relation to an establishment employing one hundred or more persons, authorise to employer, by an order in writing, to maintain a provident fund account in relation to the establishment, subject to such terms and conditions as may be specified in the Scheme: Provided that no authorisation shall be made under this sub-paragraph if the employer of such establishment has committed any offence under this code during the term preceding the date of such authorisation.

(*2*) Where an establishment is authorised to maintain a provident fund accounts under sub-paragraph (1), the employer in relation to such establishment shall maintain such account, submit such as term deposit the contribution in such manner, provide for such facilities for inspection, pay such administrative charges, and abide by such other terms and conditions, as may be specified in the Scheme.

(*3*) Any authorisation made under this paragraph may be cancelled by the appropriate Board by order in writing if the employer fails to comply with any of the terms and conditions of the authorisation or where he commits any offence under any provision of this Act.

Determination of question of disablement.

23. (*1*) The determination of the question shall be done on the basis of the following, namely:—

(*i*) whether the relevant accident has resulted in permanent disablement;

(*ii*) whether the extent of loss of earning capacity can be assessed provisionally or finally; or

(*iii*) whether the assessment of the proportion of the loss of earning capacity is provisional or final.

(*2*) In the case of provisional assessment as to the period for which such assessment shall hold good; shall be determined by a medical board, the constitution of which shall be such as may be prescribed.

(*3*) The case of any insured person for permanent disablement benefit shall be referred to a medical board for determination of the disablement question and if on that or any subsequent reference the extent of loss of earning capacity of the insured person is provisionally assessed it shall again be referred to the board not later than the end of the period taken into account by the provisional assessment.

Appeals to medical appeal tribunals.

24. If the insured person or the Central Board or the State Board is not satisfied with the decision of the medical board the insured person or the Board concerned may appeal in the prescribed manner and within the prescribed time to; (a) the Labour Court; (b) the medical appeal tribunal with a further right of appeal in the prescribed manner and within the prescribed time to the Labour Court, or; (c) the Labour Court directly. Provided that no appeal by an insured person shall lie under this paragraph if such person has applied for commutation of the disablement benefit on the basis of the decision of the medical board and received the commuted value of such benefit. Provided further that no appeal by the Central Board or the State Board shall lie under this paragraph if the Board has paid of the decision of the medical board.

Review of decisions by medical appeal tribunal.

25. (*1*) Any decision under this Act of a medical board or a medical appeal tribunal may be reviewed at any time by the medical board or the medical appeal tribunal, as the case may be, if it is satisfied by fresh evidence that the decision was given in consequence of the non-disclosure or misrepresentation by the employee or any other person of a material fact, whether the non-disclosure or misrepresentation was or was not fraudulent.

(*2*) Any assessment of the extent of the disablement resulting from the relevant employment injury may also be reviewed by a medical board, if it is satisfied that since the

making of the assessment there has been a substantial and unforeseen aggravation of the results of the relevant injury:

Provided that in assessment shall not be reviewed under this sub-paragraph unless the medical board is of opinion that having regard to the period taken into account by the assessment and the probable duration of the aggravation aforesaid, substantial injustice will be done by not reviewing it.

(*3*) Except with the leave of a medical appeal tribunal, an assessment shall not be reviewed under sub-paragraph (2) on any application made less than five years, or in the case of a provisional assessment, six months, from the date thereof and on such a review the period to be taken into account by any revised assessment shall not include any period before the date of the application.

(*4*) Subject to the foregoing provisions of this paragraph, a medical board may deal with a case of review in any manner in which it could deal with it on an original reference to it, and in particular may make a provisional assessment notwithstanding that the assessment under review was final; and the provisions of paragraphs 23 and 24 shall apply to an application for review under this paragraph and to decision of a medical board in connection with such applicaton as they apply to a case for disablement benefit under this paragraph and to a decision of the medical board in connection with such case.

Review of dependents' benefit.

26. Any decision awarding dependents' benefit under this code may be reviewed at any time by the appropriate Board if it is satisfied by fresh evidence that the decision was given in consequence of non-disclosure or misrepresentation by the claimant or any other person of a material fact (whether the non-disclosure or mis-representation as or was not fraudulent) or due to the marriage, remarriage or cesser of infirmity of, or attachment of the age of eighteen years by a claimant.

Provision of medical treatment.

27. (*1*) The Central Board and the State Board as the case may be provide for insured persons and their families reasonable medical, surgical and obstetric treatment in their own hospitals and dispensaries or in the hospitals and dispensaries maitained by the appropriate Government.

(2) The Central Board or the State Board, as the case may be, may enter into agreement with the appropriate Government in regard to the nature and scale of the medical treatment that should be provided under this Act and for sharing the cost thereof.

(*3*) The Central Board or the State Board, as the case may be, may establish and maintain such hospitals, dispensaries and other medical and surgical services as it may think fit for the benefit of the insured persons and their families entitled of social security benefit.

Failure to pay contribution.

28. If an employer fails or neglects to pay contribution which under this code, he is liable to pay in respect of any employee and by reason thereof such person becomes disentitled to any benefit or entitled to benefit on a lower scale the Central Board or the State Board, as the case may be, on being satisfied that the contribution should have been paid by the employer pay to the person the benefit at the rate to which he would have been entitled if the failure or neglect had not occurred and the Central Board or the State Board as the case may be shall be entitled to recover from the employed either.

(a) the difference between the amount of benefit which is paid by the Board to the said person and the amount of benefit which would have been payable on the basis of the contribution which were in fact paid by the employer; or

(b) twice amount of the contributions which the employer failed or neglected to pay whichever is greater.

Adjudication of dispute and claims.

29. (*1*) The Labour Court shall decide the following matters, questions or disputes, namely:—

(a) whether any person is an employee within the meaning of this code or whether he is liable to pay the employee's contribution; or

(b) the rate of wages or average daily wages of an employee for the purposes of this code; or

(c) the rate of contribution payable by the principal employer in respect of any employer; or

(d) the person who is or was the principal employer in respect of any employee; or

(e) the right of any person to any benefit, and as to the amount and duration thereof; or

(f) any direction issued by the appropriate Board on a review of any payment of dependents' benefits;

(g) any other matter which is in dispute between a principal employer and the appropriate Board, or between a principal employer and an immediate employer, or between a person and the appropriate Board or between an employee and principal or immediate employer, in respect of any contribution or benefit or other dues payable or recoverable under this Act, or any other matter related to such question or dispute.

(2) Subject to the provisions of sub-paragraph *(3)* the following claims shall be decided by the Labour Court, namely:—

(a) claim for the recovery of contribution from the principal employer;

(b) claim by a principal employer to recover contribution from any immediate employer;

(c) claim against a principal employer;

(d) claim for the recovery of the value or amount of the benefits received by a person when he is not lawfully entitled thereto; or

(e) any claim for recovery of any benefit admissible under this Act.

(3) If in any proceedings before the Labour Court a disablement question arises and the decision of the medical board or a medical appeal tribunal has not been obtained on the same and the decision of such question is necessary for the determination of the claim or question before the Labour Court that court shall direct the Central Board or the State Board as the case may be to have the question decided and shall thereafter proceed with the determination of the claim or question before it in accordance with the decision of the medical board or medical appeal tribunal.

(4) No matter which is in dispute between an employer and the Central Board or the State Board, as the case may be, in respect of any contribution or any other dues shall be raised by the employer in the Labour Court unless he has deposited with the Court fifty percent of the amount due from him as claimed by the concerned Board. Provided that the court may for reasons to be recorded in writing waive or reduce the amount to be deposited under this sub-paragraph.

Misuse of benefit.

30. If the appropriate Board is satisfied that the benefits under this code are being misused by insured persons in a factory or establishment that Board may, by order published in the Official Gazette, disentitle such persons from such of the benefits as it thinks fit.

Writing off of losses.

31. Subject to the conditions as may be prescribed by the appropriate government where the concerned Board is of opinion that the amount of contribution, interest and damages due is irrecoverable the concerned Board may sanction the writing off of this said amount.

Liability in case of transfer of establish-ments.

32. Where an employer, in relation to a factory or establishment, transfers that factory or establishment in whole or in part, by sale, gift, lease or licence or in any other manner whatsoever, the employer and the person to whom the factory or establishment is so transferred shall jointly and severally be liable to pay the amount due in respect of any contribution or any other amount payable under this Act in respect of the periods up to the date of such transfer: Provided that the liability of the transferee shall be limited to the value of the assets obtained by him by such transfer.

SCHEDULE XII

Unorganised Labour.

[See clause (ee) of section 2 and section 282]

The following categories of labour constitute unorganised labour:

Building and construction workers.
Brick kiln workers.
Handloom/powerloom workers.
Bidi and cigar workers.
Carpenters.
Cobblers.
Fisherman.
Headload workers (mathadi workers, and coolies doing loading and unloading work)
Railway Porters.
Security Staff.
Tailors.
Leather and Tannery workers.
Pappad workers.
Primary milk producers.
Rickshaw pullers.
Auto-rickshaw drivers.
Sweepers and scavengers.
Salt workers.
Tendu leaf collectors.
Toddy tappers.
Anganwadi workers.
Private motor transport workers.
Sericulture workers.
Other categories of Home base workers and casual, contract and unprotected labour.

Note: This is not an exhausive list. The appropriate Government may add to this list any category of workers if it is of the opinion that it should be added.

STATEMENT OF OBJECTS AND REASONS

In any industrialised society, labour laws constitute a very important segment. For an effective social harmony and social security, the significance of wellbalanced and just labour laws can never be over-estimated.

In all the countries with varying degrees of industrialisation, the journey of labour law has been long and full of trials and tribulations. Also, no country, with whatever level of industrialisation, can claim to have reached the final end of the road. In a world which keeps on changing fast, it becomes essential for the labour laws also to be adopted to new emerging needs.

Labour laws applied to such matters as employment, remuneration, conditions of work, trade unions and labour-management relations are intended to provide protection to the working class which, historically as a result of increasing mechanisation, was being exposed to new abuses in the workplace.

The labour law is the State's instrument to regulate the employer-employee relationship and to organise the working life within a legal framework. Its basic aim is to protect the working class from exploitation and disadvantages.

In India, the history of labour law reflects a consistent and continuous effort for safeguarding the workers' interests. Beginning with the third quarter of the 19th century, the labour law seems to have covered a long journey. India being a socialist-democratic State, the State assumes a great responsibility for social development. In the field of labour also, the State has enacted many laws so much so that with the multiplicity of labour laws, India seems to be overlegislated. With the multiplicity of laws, their enforcement is adversely affected. In fact, multiplicity of laws in any field works against their effectiveness and becomes counterproductive.

This code shall overcome the problem of having labour legislation based on a large number of individual legislations and labour court judgements. Also, its coverage is universal in character as all establishments in which even one person is employed will be covered by the code.

Hence this Bill.

NEW DELHI;
June 26, 1996

SANAT MEHTA

PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117 AND 274 OF THE CONSTITUTION OF INDIA

[Copy of letter No. H-11016/7/96-Coord., dated 21 November 1996 from Shri M. Arunachalam, Minister of Labour to the Secretary-General, Lok Sabha.]

The President, having been informed of the subject matter of the Indian Labour Bill, 1996 by Shri Sanat Mehta, M.P., has accorded his recommendation under articles 117 *(1)* and 274 *(1)* of the Constitution for introduction of the Bill in Lok Sabha.

FINANCIAL MEMORANDUM

Clause 7 of the Bill provides that all employees shall have equal remuneration for equal work irrespective of his employment status and also provides for safe and healthy conditions of work. Clause 8 provides that every employee shall be entitled to security of income during sickness, disability or natural calamities. Clause 11 provides that payment of wages shall be granted by the Government in case of closure, insolvency or bankruptcy of the employer. Clause 12 provides for facility to representatives of recognised Trade Unions. Clauses 15 and 16 provide for constitution of Human Resource Services and employment Services. Clauses 18 and 19 provide for vocational guidance and training centres with necessary infrastructure. Clause 25 provides that seasonal employees shall be given wages during non-working season also. Clause 48 provides for grant of educational leave with wages. Clause 53 provides for certain welfare measures in every establishment. Clauses 54 and 55 provide for allocation of land at cheap rate for the purpose of housing to employees. Clause 61 provides for revision of minimum wages. Clause 83 provides for equal pay for equal work. Clause 85 provides for constitution of a Wage Board. Clause 107 provides for constitution of Occupational Health Service. Clause 144 provides for constitution of National Central Labour Relations Commission and necessary officers to assist it. Clauses 145 and 146 provide for appointment of Conciliation Officers and Mediators. Clause 148 provides for constitution of Labour Courts. Clause 157 provides for framing of Social Security Scheme. Clause 158 provides for establishment of Social Security Fund. Clause 159 provides that appropriate Government shall contribute to the Social Security Fund. Clause 173 provides for establishment of welfare funds.

Clause 174 provides for framing of social security scheme for self employed persons. Clause 175 provides for framing of scheme for persons who are not in employment. Clause 180 provides for appointment of a Director General of the Indian Labour Conference and the necessary staff to assist him. Clauses 183 and 184 provide for National Council of Employment and Central Board of Employment. Clauses 187 and 188 provide for appointment of National Council of Vocational Training and Guidance and Central/State Board Vocational Training and Guidance. Clause 190 provides for necessary assistance to National Council of Vocational Guidance. Clauses 192 to 194 and Clause 196 provides for appointment of National Commission of Safety, Health and Work Environment and their counterparts in the Central and State Governments and a Director General of Safety and Health. Clause 199 provides for appointment of Site Appraisal Committees. Clause 200 provides for appointment of Safety Officers. Clause 201 provides for appointment of Social Security Authority. Clause 202 provides for Central Board of Social Security. Clause 204 provides for Central and State Medical Benefit Council. Clauses 205 and 206 provide for appointment of Director General of Social Security and Principal Officers of the Central Board of Social Security. Clause 215 provides for appointment of necessary inspectors for enforcement of the provisions of this Bill. Clause 265 provides for constitution of a National Authority for Bonded, Rural and Unorganised Labour. Clause 266 provides for establishment of a Board for Bonded and Rural Labour with necessary members and staff.

All these provisions involve expenditure from the Consolidated Fund of India inasmuch as the Central Government has to incur expenditure in respect of establishments or factories under its control and in respect of Union territories.

It is likely that a recurring expenditure to the tune of rupees sixty crore is likely to involve from the Consolidated Fund of India per annum.

A non-recurring expenditure of about rupees hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 58 of the Bill provides that the appropriate Government may make rules in respect of provisions contained in Clauses 54 to 56. Clause 288 empowers the appropriate Government to make rules for carrying out the purpose of this Bill. The matters in respect of which such rules may be made are matters of procedure and administrative details. The delegation of legislative power is therefore, of a normal character.

BILL NO. 2 OF 1997

A Bill to provide for total prohibition and for matters connected therewith.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

1. *(1)* This Act may be called the Prohibition Act, 1997. Short title, extent and commencement.

(2) It extends to the Union territories only.

(3) It shall come into force at once.

2. The Central Government shall, with effect from the commencement of this Act, impose and enforce total prohibition in the Union territories. Imposition of prohibition in Union territories.

3. No person shall manufacture, sell, purchase, distribute or consume alcohol or any other intoxicating drinks. Banning of manufacture, etc. of intoxicating drinks

Punishment.

4. Any person violating the provisions of section 3 shall be punished with imprisonment for a term not exceeding five years or with fine not exceeding rupees ten thousand or with both.

Power to make rules.

5. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Although greatmen like Nanak, Buddha, Dayanand and Gandhiji fought against alcohol abuse, yet the consumption of liquor is increasing day by day.

Due to this, the law and order situation is deteriorating day by day in our country. Incidents of divorce, rape and molestation of women are on the increase. Motor vehicle accidents are also increasing. In most of these cases, consumption of liquor is found to be the main cause behind such mishaps. Liver, gastric and other health disorders are caused by liquor consumption. Liquor consumption does not merely create problems of physical health but also of mental, moral and social nature. A large number of deaths had occurred in the States of Rajasthan, Andhra Pradesh, Orissa and Tamil Nadu due to consumption of alcohol. Alcohol related problems play havoc with the lives of rural poor and urban middle classes. It strikes the highest and the humblest. There is also a nexus between liquor mafia and unscrupulous politicians resulting in criminalisation of politics.

Therefore, it is high time that a legislation is brought forward for imposing a total prohibition in the Union territories in the first instance. Thereafter, the States may also follow suit and impose total prohibition.

Hence this Bill.

NEW DELHI;
November 26, 1996.

GIRIJA VYAS

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of detail only and as such the delegation of legislative power is of a normal character.

BILL NO. 13 OF 1997

A Bill to provide for the protection and welfare of widows.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Widows (Protection and Welfare) Act, 1997.

(*2*) It extends to the whole of India.

(*3*) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "prescribed" means prescribed by rules made under this Act; and

(*b*) "widow" means a woman whose husband has died and who is not employed and has no independent or adequate means of livelihood.

Establishment of Widows' Protection and Welfare Fund.

3. *(1)* **The Central Government shall establish a Widows' Protection and Welfare Fund for the purposes of carrying out the provisions of this Act.**

(2) **The Central Government shall allocate such sums of money as may be required for the Fund.**

(3) The Central Government shall involve voluntary organisations in collecting money or donations required for the Fund.

Establishment of widow homes.

4. *(1)* **The Central Government shall establish one widow home in each district in consultation with the concerned State Government.**

(2) **Every widow who has been admitted in a widow home shall be provided with all necessary facilities including medical assistance, vocational training so that they can lead a respectable life.**

Widows' Protection and Welfare Fund Authority.

5. *(1)* **The Central Government shall set up an authority to be known as Widows' Protection and Welfare Fund Authority to oversee the administration and proper functioning of the widow homes established under section 4.**

(2) **The authority shall have a Chairman and two Vice-Chairmen who shall be appointed by the Central Government and shall also consist of a representative from each State Government to be appointed as members.**

(3) The head office of the Authority shall be located at New Delhi and regional offices in all the State capitals.

(4) The terms and conditions of service of Chairman and two Vice-Chairmen shall be such as may be prescribed.

Duty of children to care for the widow in the family.

6. *(1)* It shall be the duty of children of every widow to provide the widow with all necessary facilities and to treat her with dignity.

(2) Any widow who is ill treated or is not provided with necessary facilities shall be sent to the nearest widow home and the person responsible for the maintenance of the widow shall meet the expenditure incurred in the widow home on her maintenance.

Explanation.— In this section, the expression "children" means and includes married son/daughter, daughter-in-law/son-in-law, and their offsprings or unmarried children of the widow.

Power to make rules.

7. The Central Government may by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

In our society widows are the most neglected persons. As soon as the husband dies widow becomes some sort of a burden on the family and she is an object of the sympathy for all. The widow is dependent on her children, grand children and other close relatives. But near disappearance of joint family system and due to economic considerations widows are being ignored and neglected by the children and are left to fend for themselves. There is a provision in section 125 of the Code of Criminal Procedure, 1973 providing for maintenance allowance for certain persons from their legal heirs. But the scope of the relationship and the quantum of maintenance allowance in the said Act is very limited. Our country being a welfare State should take steps for protecting the interests of the widows. The close relatives of a widow who do not take care of her should be made to pay for her maintenance.

The Bill seeks to achieve the above objective.

NEW DELHI;
December 2, 1996.

SUBRATA MUKHERJEE

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the Central Government shall establish a Widows' Protection and Welfare Fund for the purposes of carrying out the provisions of the Bill. Clause 4 provides for the establishment of one widow home in each district of the country. It further provides that the widow homes shall provide all necessary facilities to widows. Clause 5 provides for the setting up of an authority to be known as Widows' Protection and Welfare Fund Authority. The authority shall consist of a Chairman, two Vice-Chairmen, and a representative from each State Government. It further provides that the head office of the Authority shall be located at New Delhi and regional offices in all State capitals.

The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees two hundred crore is likely to be involved from the Consolidated Fund of India. A non-recurring expenditure of about rupees fifty lakh is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

S. GOPALAN,
Secretary-General.

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